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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 2—FILLING COMPETITIVE POSITIONS

AGENCY AUTHORITY, POSITION CHANGE

Paragraph (a) of § 2.501 is amended as set out below.

§ 2.501 *Agency authority*—(a) *Position change.* (1) Subject to the provisions of subparagraph (2) of this paragraph, the Commission delegates authority to agencies to—

(i) Promote, demote, or reassign career or career-conditional employees;

(ii) Reassign an employee serving under temporary appointment pending establishment of a register to any position to which his original assignment could have been made by the same appointing officer from the same recruiting list under the same order of consideration; and

(iii) Promote, demote, or reassign employees serving under overseas limited appointment of indefinite duration to other positions to which initial appointments under § 2.303 are authorized.

(2) Unless otherwise specifically provided by the Commission, after December 31, 1958 the authority to promote delegated by subparagraph (1) of this paragraph is limited to positions for which agencies have adopted and are administering a program designed to insure a systematic means of selection for promotion according to merit. That program must conform with the standards and instructions of the Commission, and shall include—

(i) Guidelines stating how promotion plans are to be established and operated, and

(ii) Plans for selection of employees for promotion.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 58-314; Filed, Jan. 14, 1958; 8:48 a. m.]

PART 27—EXCLUSION FROM PROVISIONS OF THE FEDERAL EMPLOYEES PAY ACT OF 1945, AS AMENDED, AND THE CLASSIFICATION ACT OF 1949, AS AMENDED, AND ESTABLISHMENT OF MAXIMUM STIPENDS FOR POSITIONS IN GOVERNMENT HOSPITALS FILLED BY STUDENT OR RESIDENT TRAINEES

DEPARTMENT OF THE ARMY, STUDENT DIETITIANS

1. Effective January 15, 1958, the following item is added to § 27.1:

§ 27.1 *Exclusion from provisions of Federal Employees Pay Act and Classification Act.* * * *

Student dietitians, Department of the Army, approved training, after a minimum of three years' college level training.

2. Effective January 15, 1958, the following item is added to § 27.2:

§ 27.2 *Maximum stipends prescribed.* * * *

Student dietitians, Department of the Army: Approved training, after a minimum of three years' college level training, per month—$150.

(61 Stat. 727; 5 U. S. C. 1051-1058)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 58-313; Filed, Jan. 14, 1958; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 129, Amdt. 1]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as

(Continued on next page)

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of navel oranges grown in Arizona and designated part of California.

b. *Order, as amended.* The provisions in paragraph (b) (1) (i) of § 914.429 (Navel Orange Regulation 129, 23 F. R.

83) are hereby amended to read as follows:

(i) District 1: 623,700 cartons.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: January 10, 1958.

[SEAL] G. R. GRANGE,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-304; Filed, Jan. 14, 1958; 8:46 a. m.]

TITLE 28—JUDICIAL ADMINISTRATION

Chapter II—Subversive Activities Control Board

PART 201—RULES OF PRACTICE

APPEARANCE AND PRACTICE BEFORE THE BOARD; MOTIONS

By virtue of the authority vested in it by the Subversive Activities Control Act of 1950, 64 Stat. 987, the Subversive Activities Control Board hereby issues the following revisions of §§ 201.5 and 201.10 of statement of organization and rules of procedure (28 CFR Part 201), which the Board finds necessary for the performance of its duties. The revised sections are in complete substitution for the original sections, and shall be effective January 16, 1958.

Section 201.5 is revised to read as follows:

§ 201.5 *Appearance and practice before the Board.* (a) Any organization which is a party to any proceeding before the Board may appear by an official or by or with counsel, and any individual who is a party to any proceeding may appear in person or by or with counsel.

(b) Any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any State, territory, or of the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law, may represent others before the Board.

(c) When a person acting in a representative capacity appears in person or signs a paper in practice before this Board, his personal appearance or signature shall constitute a representation to the Board that under the provisions of this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts. Further proof of a person's authority to act in a representative capacity may be required.

(d) Any attorney, practicing before the Board who, in the judgment of the Board does not possess the requisite qualifications to represent others, or who is lacking in character, integrity, or proper professional conduct, may be suspended from practicing before the Board.

(e) No former Board member, officer, examiner, attorney, clerk, or other former employee of this Board shall appear as attorney or counsel for or represent any party in any hearing, the files of which came to the personal attention of such former Board member, officer, examiner, attorney, clerk, or other former employee during the term of his service or employment with the Board.

Section 201.10 is revised to read as follows:

§ 201.10 *Motions.* (a) All motions and requests for rulings by the Board, a member thereof, or the hearing examiner shall state briefly the purpose thereof and the relief sought, and all supporting affidavits, records, and other papers, except such as have been previously filed, shall be filed with the motions and clearly referred to therein.

(b) A reply to any written motion shall be filed within seven (7) days after date of service thereof, unless a different time is fixed by the Board or the hearing examiner. A reply to a reply is not permitted unless under unusual circumstances and specifically authorized by the Board, or the hearing examiner.

(c) Motions made at a hearing may be stated orally, provided that the presiding member of the Board, or the hearing examiner may require that such motions be reduced to writing and filed and served in the same manner as written motions. All motions which relate to the introduction or striking of evidence shall be made to the presiding Board member or the hearing examiner as the case may be. No exception is necessary to the ruling of a presiding member or hearing examiner to preserve the objection before the Board or appellate courts.

(Sec. 12, 64 Stat. 977, as amended; 50 U. S. C. 791)

By the Board.

[SEAL] DOROTHY MCCULLOUGH LEE,
Chairman.

JANUARY 10, 1958.

[F. R. Doc. 58-340; Filed, Jan. 14, 1958; 9:35 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 206—FISHING AND HUNTING REGULATIONS

CHESAPEAKE BAY, MD. AND VA.

Pursuant to the provisions of section 10 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U. S. C. 403), § 206.50 governing the construction and maintenance of fishing structures in Chesapeake Bay, Maryland and Virginia, and its navigable tributaries is amended by redesignating the fishing structure limits in the Norfolk District, as follows:

§ 206.50 *Chesapeake Bay, Md. and Va., and its navigable tributaries; fishing structures.* * * *

(g) *Norfolk District*—(1) *South side of Chesapeake Bay between Cape Henry and Hampton Roads.*

	Latitude	Longitude
* * *	* * *	* * *
S "26N"	* * *	* * *
S "25N"	36°59'03.4"	76°17'43.3".
S "24N"	Deleted	
Willoughby Light	Deleted	
Unmarked Point 5	36°58'07.1"	76°17'43.4".

(2) *James River and Hampton Roads.* * * *

(xi) *Newport News to Old Point Comfort.*

	Latitude	Longitude
Unmarked Point 11	* * *	* * *
Bell (Fl R) "2"	* * *	* * *
S "20N"	* * *	* * *
S "19N"	* * *	* * *
C "1"	37°00'11.5"	76°20'31.4".
Unmarked Point 12	37°00'47.4"	76°20'31.0".
No limit line	Deleted	
Unmarked Point 13	Deleted	
Hampton Creek Light	Deleted	
Unmarked Point 14	Deleted	

(xii) *Hampton Bar fishing area.*

	Latitude	Longitude
* * *	* * *	* * *
Unmarked Point 14A	Deleted	
S "23N"	37°00'02.2"	76°19'24.4".
* * *	* * *	* * *

[Regs., December 27, 1957, 800.217 (Chesapeake Bay, Md. and Va.)—ENGWO] (Sec. 10, 30 Stat. 1151; 33 U. S. 403)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army, The Adjutant General.

[F. R. Doc. 58-296; Filed, Jan. 14, 1958; 8:45 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 36—SERVICEMEN'S READJUSTMENT ACT OF 1944

SUBPART A—TITLE III; LOAN GUARANTY

ALLOWABLE CHARGES, FEES, AND DISCOUNTS

In § 36.4312, paragraph (e) is amended to read as follows:

§ 36.4312 *Allowable charges, fees, and discounts.* * * *

(e) No loan for the purchase or construction of a dwelling unit on which the Administrator receives a request for a determination of reasonable value on or after August 5, 1957, shall be guaranteed or insured unless the lender certifies to the Administrator, in such form as the Administrator may prescribe, that it has not imposed and will not impose, directly or indirectly, any charges or fees against the veteran borrower in excess of those permissible under the schedule set forth in paragraph (d) of this section, and that it has not imposed and will not impose, directly or indirectly, against the builder or seller of the dwelling unit purchased or constructed with the proceeds of the guaranteed or insured loan any charges, fees, or discounts in excess

of those permissible under the schedule set forth in paragraph (f) of this section. In addition to such certification by the lender, if the request for determination of reasonable value which is received on or after August 5, 1957, relates to a new dwelling unit which has not been occupied previously, the builder shall certify, in such form as the Administrator may prescribe, that in connection with the financing of the construction or sale of the dwelling unit the builder has not paid and will not pay or suffer, directly or indirectly, any charges, fees, or discounts in excess of those permissible under the schedule set forth in paragraph (f) of this section.

* * * * *

(Sec. 504, 58 Stat. 293, as amended; 38 U. S. C. 694d)

This regulation is effective January 15, 1958.

[SEAL] ROBERT J. LAMPHERE,
Acting Deputy Administrator.

[F. R. Doc. 58-315; Filed, Jan. 14, 1958; 8:48 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1574]

[Fairbanks 013622]

ALASKA

WITHDRAWING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE AIR FORCE AS A RECREATION SITE; PARTIALLY REVOKING PUBLIC LAND ORDERS NO. 225 OF APRIL 21, 1944 AND NO. 1253 OF NOVEMBER 15, 1955

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws, nor the act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601–604), and reserved for use of the Department of the Air Force as the Birch Lake Recreation Site:

FAIRBANKS MERIDIAN

T. 7 S., R. 5 E.,
Sec. 12, Lots 7, 8, 10, and 11.
T. 7 S., R. 6 E.,
Sec. 7, Lots 3 and 5.

The areas described aggregate 48.77 acres.

Public Land Orders No. 225 of April 21, 1944 and No. 1253 of November 15, 1955, which withdrew lands for classification, are hereby revoked so far as they affect the lands described in this order.

It is the intent of this order that the withdrawn minerals in the lands shall remain under the jurisdiction of the Department of the Interior, and no disposition shall be made of such minerals except under the applicable United States mining and mineral leasing laws, and then only after such modification of the provisions of this order as may be necessary to permit such disposition.

ROYCE A. HARDY,
Assistant Secretary of the Interior.

JANUARY 8, 1958.

[F. R. Doc. 58-312; Filed, Jan. 14, 1958; 8:47 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 125—RAILROAD ACCIDENTS; REPORTS AND CLASSIFICATION

MONTHLY REPORTS OF RAILROAD ACCIDENTS

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 23d day of December 1957.

The Commission's rules governing monthly reports of railroad accidents, as set forth in its order of November 23, 1956, as amended by its order of December 27, 1956, became effective January 1, 1957; and such rules were further modified and amended by order of July 25, 1957, effective September 1, 1957;

Upon further consideration of the matters and things involved in the Commission's rules governing the monthly reports of railroad accidents, good cause appearing therefor, and the changes to be effectuated by this order being minor changes in coding, rule-making procedures under section 4 (a) of the Administrative Procedure Act, 5 U. S. C. 1003, being deemed unnecessary:

It is ordered, That § 125.55 *Codes for Accident Reporting,* be, and it is hereby, modified and amended by substituting for Codes for Accident Reporting items numbered 1901–1988, 2601–2788, 5401–5488, 5501–5588, 6001–6188, 6501–6588, and 6601–6988, in each instance inclusive, the Code for Accident Reporting items correspondingly numbered as set forth below, including the additional subheadings shown in connection therewith.

It is further ordered, That a copy of this order shall be served on all common carriers subject to the provisions of the Accident Reports Act of 1910, and on every trustee, receiver, executor, administrator or assignee of any such carrier, and that notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington 25, D. C., and by filing a copy thereof with the Director of the Division of the Federal Register;

And it is further ordered, That this order shall become effective January 1, 1958, except as to accidents occurring prior to that date.

(Sec. 12, 24 Stat. 383, as amended, sec. 1, 36 Stat. 350; 49 U. S. C. 12, 45 U. S. C. 38. Interprets or applies sec. 20, 24 Stat. 386, as amended, sec. 3, 36 Stat. 351; 49 U. S. C. 20, 45 U. S. C. 40.)

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

OTHER FORMS OF NEGLIGENCE

1901. Excessive speed or failure to control in yard limits.
1902. Excessive speed in other than yard limits.
1903. Headlight improperly used.
1904. Superior train, failure to clear.
1905. Meeting point, overrunning.
1906. Disregard of slow flag or other protection placed by maintenance or other nontrain employees.
1907. Failure to whistle or otherwise warn in accordance with rules or instructions.
1908. Failure to sufficiently reduce speed in accordance with rules or instructions where view was obstructed by weather conditions.
1909. Failure to sufficiently reduce speed in accordance with rules or instructions where view was obstructed by other than weather conditions.
1910. Failure of engineman to keep proper lookout, not otherwise classified.
1911. Intentional movements of locomotives, trains or cars, not authorized.
1912. Locomotives, trains or cars improperly secured, unexpected movement of.
1913. Low water in locomotive boiler.
1914. Premature opening of cover plates on diesel locomotive crankcase, after overheating of lubricating oil.
1915. Other improper handling of locomotives, rail motor cars or trains by enginemen.
1916. Running of locomotive or rail motor car by unauthorized person.
1917. Absence of man on or at leading car being pushed.
1918. Cutting off cars at excessive speed.
1919. Cutting off cars without rider to control.
1920. Failure or inability of rider to get on cars to control.
1921. Failure to sufficiently slow down cars in retarder.
1922. Stop or excessively slow down cars in retarder.
1923. Failure to place skate ahead of car.
1924. Failure to remove skate from under car.
1925. Failure to return skate to skate-placing mechanism.
1926. Attempted or actual coupling at excessive speed.
1927. Coupling not properly made.
1928. Improper shifting of cars on or off floats or vessels.
1929. Other improper handling in switching.
1930. Improper movement of locomotives by hostlers.
1931. Turntable or transfer table, failure to align, latch or secure.
1932. Failure of maintenance or other nontrain employees to protect when obstructing track.
1933. Joint failure to protect and disregard of restricting signal.
1934. Joint Failure to protect and excessive speed.
1935. Failure by supervisors (Terminal Trainmaster, Yardmaster, etc.) to convey correct information.
1936. Improper routing of car with high or wide load onto line not having sufficient clearance for same.
1988. Other negligence of employees.*

COUPLERS, DRAFT GEAR AND RELATED PARTS

2601. Coupler, broken, not pulled out.
2602. Coupler, improper height.
2603. Jackknifing of couplers.
2604. Couplers passing in attempting to make coupling.
2605. Knuckle, broken or defective.
2606. Knuckle lock or locklift assembly.
2607. Uncoupling device.

*Including information insufficient to classify.

COUPLERS, DRAFT GEAR AND RELATED PARTS—continued

2608. Friction buffer or diaphragm.
Coupler or draft gear pulled out or down, due to failure of:
2609. Coupler.
2610. Coupler rivets or swivel pin.
2611. Coupler yoke.
2612. Coupler key.
2613. Coupler key retainer.
2614. Striking casting or coupler carrier.
2615. Sills or draft lugs.
2616. Draft gear carrier.
2617. Cushion underframe parts.
2618. Other parts causing coupler or draft gear to drop.
2636. Other defects in couplers.*
2687. Other defects in draft gear.*
2688. Other defects in cushion underframe.*

CAR STRUCTURE

2701. Sills, bent or broken.
2702. Body bolster.
2703. Other underframe parts.
2704. Sides, spreading or buckling beyond equipment clearance line.
2705. Drop end, falling off.
2706. Passenger car—end gate, falling off.
2707. Floor, material falling from or through.
2708. Side door, falling off.
2709. Drop door, open or defective.
2710. Hatch, dome or manhole cover.
2711. Stake pocket or load retainer.
2788. Other defects in car structure.*

PERSONS ON LOCOMOTIVES OR CARS COMING IN CONTACT WITH STRUCTURES, ETC.[1]

Person on Locomotive or Car Coming in Contact With Fixed Structure

Overhead: [2]
Standard clearance:
5401. Negligence of employee.
5402. Negligence of nonemployee.
Less than standard clearance (notification by warning devices, signs, written instructions, etc.):
5403. Negligence of employee.
5404. Negligence of nonemployee.
Less than standard clearance (no notification): [3]
5405. Negligence of employee.[4]
5406. Negligence of nonemployee.
5407. Defective railroad-owned structure.
5408. Nonrailroad-owned structure.
5409. Other causes.
Side: [5]
Standard clearance:
5410. Negligence of employee.
5411. Negligence of nonemployee.
Less than standard clearance (notification by warning devices, signs, written instructions, etc.):
5412. Negligence of employee.
5413. Negligence of nonemployee.
Less than standard clearance (no notification): [3]
5414. Negligence of employee.[4]
5415. Negligence of nonemployee.

PERSONS ON LOCOMOTIVES OR CARS COMING IN CONTACT WITH STRUCTURES, ETC.[1]—con.

Person on Locomotive or Car Coming in Contact With Fixed Structure—Continued

Side [5]—Continued
Less than standard clearance (no notification) [3]—Continued
5416. Defective railroad-owned structure.
5417. Nonrailroad-owned structure.
5418. Other causes.

Person on Locomotive or Car Coming in Contact With Other Than Fixed Structure

Temporary obstruction at less than standard clearance authorized by railroad and employee notified of hazard): [6]
Overhead:
5419. Negligence of employee.
5420. Negligence of nonemployee.
Side:
5421. Negligence of employee.
5422. Negligence of nonemployee.
Temporary obstruction at less than standard clearance (employee not notified of hazard): [6]
Overhead:
5423. Negligence of employee.[4]
5424. Negligence of nonemployee.
5425. Railroad-owned or placed obstruction.
5426. Nonrailroad-owned or placed obstruction.
5427. Other causes.
Side: [7]
5428. Negligence of employee.[4]
5429. Negligence of nonemployee.
5430. Railroad-owned or placed obstruction.
5431. Nonrailroad-owned or placed obstruction.
5432. Other causes.
Portable loading and unloading devices, gangplanks, chutes, etc.:
Standard side clearance:
5433. Negligence of employee.
5434. Negligence of nonemployee.
Less than standard side clearance:
5435. Negligence of employee.[4]
5436. Negligence of nonemployee.
5437. Railroad-owned devices, etc.
5438. Nonrailroad-owned devices, etc.
5439. Other causes.
Locomotive or car on adjacent track:
Standard side clearance:
5440. Negligence of employee.
5441. Negligence of nonemployee.
Less than standard side clearance (notification by warning devices, signs, written instructions, etc.):
5442. Negligence of employee.
5443. Negligence of nonemployee.
Less than standard side clearance (no notification): [8]
5444. Negligence of employee.[4]
5445. Negligence of nonemployee.
5446. Other causes.
Tractors, lift trucks, etc.: [9]
Standard side clearance:
5447. Negligence of employee.
5448. Negligence of nonemployee.

PERSONS ON LOCOMOTIVES OR CARS COMING IN CONTACT WITH STRUCTURES, ETC.[1]—con.

Person on Locomotive or Car Coming in Contact With Other Than Fixed Structure—Con.

Tractors, lift trucks, etc.[9]—Continued
Less than standard side clearance:
5449. Negligence of employee.[4]
5450. Negligence of nonemployee.
5451. Railroad-owned tractor, etc.
5452. Nonrailroad-owned tractor, etc.
5453. Other causes.
5488. Person on locomotive or car coming in contact with other structures, etc.*

GETTING ON OR OFF LOCOMOTIVES OR CARS

5501. Losing, or not finding handhold, negligence.
5502. Losing, or not finding handhold, handhold defective or missing.
5503. Losing, or not finding handhold, other causes.
5504. Losing, or not finding foothold, negligence.
5505. Losing, or not finding foothold, ladder, step, stirrup, or footboard defective or missing.
5506. Losing, or not finding foothold, other causes.
5507. Missed footing on porter's step box.
5508. Stepping or falling between car and high platform.[10]
5509. Stepping or falling between car steps and low platform.
5510. Stepping or falling into open passenger car trap door, high platform,[10] defective trap door.
5511. Stepping or falling into open passenger car trap door, high platform,[10] no defects.
5512. Struck partly opened pasenger car trap door, high platform,[10] defective trap door latch.
5513. Struck partly opened passenger car trap door, high platform,[10] no defects.
5514. Caught ring, glove, or clothing.
5515. Starting, stopping, or lurch of locomotive or cars.
5516. Falling from or through bridge or trestle.
5517. Coming in contact with locomotive or car door, negligence.
5518. Coming in contact with locomotive or car door, defective door.
5519. Coming in contact with locomotive or car door, defective door hold-back device.
5520. Coming in contact with locomotive or car door, other causes.
5521. Coming in contact with other parts of locomotive, car or lading, while boarding or alighting.
Coming in contact with fixed structure: [11] [12]
Standard side clearance:
5522. Negligence of employee.
5523. Negligence of nonemployee.
Less than standard side clearance (notification by warning devices, signs, written instructions, etc.):
5524. Negligence of employee.
5525. Negligence of nonemployee.
Less than standard side clearance (no notification): [3]
5526. Negligence of employee.[4]
5527. Negligence of nonemployee.
5528. Defective railroad-owned structure.
5529. Nonrailroad-owned structure.
5530. Other causes.

*Including information insufficient to classify.

[1] For similar accidents to persons while not on locomotives or cars, involving clearances, see Codes 6531–6559, or getting on or off locomotives or cars, see Codes 5522–5558.

[2] Includes bridges, tunnels, buildings, fueling, watering, or sanding structures, pipes, wires, etc.

[3] Includes warning device defective, sign obscured, etc.

[4] This negligence does not necessarily have to be negligence of the employee who is a casualty as a result of the accident, but could be negligence of another employee.

[5] Includes bridges, tunnels, buildings, platforms, canopies, fueling, watering, or sanding structures, pipes, wires, switch stands, signs, signals, mail cranes, etc.

[6] Includes ladders, scaffolding, ropes, forms, etc.

[7] Includes baggage, express, mail, freight, etc.

[8] Includes warning device defective, sign obscured, etc. See Code 6813 for material, tools, or equipment parts projecting beyond the equipment clearance line on other locomotive or car and Codes 6003–6007 for lading, blocking, stakes, steel banding, or other load tiedowns or dunnage projecting beyond the equipment clearance line on other locomotive or car.

[9] Includes baggage, express, mail or freight trucks, and all types of non-rail or non-highway material-handling vehicles.

[10] Station platform at level of car floor (car steps not used).

[11] Includes bridges, tunnels, buildings, platforms, fueling, watering or sanding structures, pipes, wires, switch stands, signs, signals, mail cranes, etc.

[12] For similar accidents to persons riding on locomotives or cars, involving clearances, see Codes 5401–5453, and 6813, or while not on locomotives or cars see Codes 6531–6559.

GETTING ON OR OFF LOCOMOTIVE OR CAR—CON.

Coming in contact with other than fixed structures: [12]
Temporary obstruction at less than standard side clearance (authorized by railroad and employee notified of hazard): [6]
5531. Negligence of employee.
5532. Negligence of nonemployee.
Temporary obstruction at less than standard side clearance (employee not notified of hazard): [6] [7]
5533. Negligence of employee.[4]
5534. Negligence of nonemployee.
5535. Railroad-owned or placed obstruction.
5536. Nonrailroad-owned or placed obstruction.
5537. Other causes.
Portable loading and unloading devices, gangplanks, chutes, etc.:
Standard side clearance:
5538. Negligence of employee.
5539. Negligence of nonemployee.
Less than standard side clearance:
5540. Negligence of employee.[4]
5541. Negligence of nonemployee.
5542. Railroad-owned devices, etc.
5543. Nonrailroad-owned devices, etc.
5544. Other causes.
Locomotive or car on adjacent track:
Standard side clearance:
5545. Negligence of employee.
5546. Negligence of nonemployee.
Less than standard side clearance (notification by warning devices, signs, written instructions, etc.):
5547. Negligence of employee.
5548. Negligence of nonemployee.
Less than standard side clearance (no notification): [5]
5549. Negligence of employee.[4]
5550. Negligence of nonemployee.
5551. Other causes.
Tractors, lift trucks, etc.: [9]
Standard side clearance:
5552. Negligence of employee.
5553. Negligence of nonemployee.
Less than standard side clearance:
5554. Negligence of employee.[4]
5555. Negligence of nonemployee.
5556. Railroad-owned tractor, etc.
5557. Nonrailroad-owned tractor, etc.
5558. Other causes.
5559. Carrying objects while boarding or alighting.
5560. Stumbling, slipping or falling on passenger car steps, negligence.[13]
5561. Stumbling, slipping or falling on snow or ice on passenger car steps.
5562. Stumbling, slipping or falling on passenger car steps, defective steps.[13]
5563. Stumbling, slipping or falling on passenger car steps, other causes.[13]
5564. Stumbling, slipping or falling on snow or ice on station platform.
5565. Stumbling, slipping or falling on defective station platform.

[5] Includes warning device defective, sign obscured, etc.

[4] This negligence does not necessarily have to be negligence of the employee who is a casualty as a result of the accident, but could be negligence of another employee.

[6] Includes ladders, scaffolding, ropes, forms, etc.

[7] Includes baggage, express, mail, freight, etc.

[9] Includes baggage, express, mail, or freight trucks, and all types of non-rail or non-highway material-handling vehicles.

[12] For similar accidents to persons riding on locomotives or cars, involving clearances, see codes 5401–5453, and 6813, or while not on locomotives or cars see codes 6531–6559.

[13] Includes folding steps controlled by the operation of trapdoor.

GETTING ON OR OFF LOCOMOTIVE OR CAR—CON.

5566. Stumbling, slipping or falling on station platform, other causes.
5567. Stumbling, slipping or falling, excessive speed of locomotive or car for boarding or alighting.
5568. Other stumbling, slipping or falling, negligence.
5569. Other stumbling, slipping or falling on snow or ice.
5570. Other stumbling, slipping or falling on loose, sharp or slippery footing on ground (mud, oil, trash, stones, etc.).
5571. Other stumbling, slipping or falling on uneven footing (holes in ground, ties, etc.).
5572. Other stumbling, slipping or falling, on defective equipment, n. o. c.
5573. Other stumbling, slipping or falling, on defective structure, n. o. c.
5574. Other stumbling, slipping, falling or jumping, other causes.
5575. Jumping or attempting to jump from equipment in anticipation of accident.
5586. Other accidents getting on or off locomotives or cars, negligence.*
5587. Other accidents getting on or off locomotives or cars, defective parts.*
5588. Other accidents getting on or off locomotives or cars, other causes.*

6. MISCELLANEOUS CAUSES

FREIGHT, BAGGAGE, EXPRESS OR MAIL

6001. Handling freight.
6002. Lading on car shifted (except as classified in Code 5215).
Lading, blocking, stakes, steel banding, or other tiedowns or dunnage projecting beyond the equipment clearance line:
6003. Negligence of employee.[4]
6004. Negligence of nonemployee.
6005. Defect in railroad equipment, tiedowns or dunnage.
6006. Defect in nonrailroad equipment, tiedowns or dunnage.
6007. Other causes.
6008. Improper routing of car with high or wide load onto line not having sufficient clearance for same.
6009. Handling baggage, express or mail.
6010. Locomotive or car striking baggage, express, freight or mail, or striking baggage trucks or similar objects.
6011. Baggage or similar articles falling from luggage rack in passenger car.
6012. Baggage or similar articles in passenger car aisle or vestibule, tripping over.
6088. Other accidents involving freight, baggage, express or mail.*

BRAKING OR SECURING EQUIPMENT [14]

6101. Emergency or severe application of air brakes, negligence of engineman.
6102. Emergency or severe application of air brakes, negligence of train crew.
6103. Emergency or severe application of air brakes, burst or parted air hose.
6104. Emergency or severe application of air brakes, other defective equipment.
6105. Blocking or chocking cars.
6188. Other accidents in braking or securing equipment.*

STUMBLING, SLIPPING, FALLING, CAUGHT, ETC., NOT ELSEWHERE CLASSIFIED

Stumbling, slipping or falling on, or from, locomotives or cars, as follows: [15]
6501. On snow or ice.
6502. On passenger car buffer or foot plate, defective.

* Including information insufficient to classify.

[14] Not including hand brake accidents classified under Codes 5201 to 5299.

[15] See Codes 5501 to 5588 for similar accidents while getting on or off locomotives or cars.

n. o. c. Not otherwise classified.

6. MISCELLANEOUS CAUSES—Continued

STUMBLING, SLIPPING, FALLING, CAUGHT, ETC., NOT ELSEWHERE CLASSIFIED—continued

Stumbling, slipping or falling on, or from, locomotives or cars, as follows [15]—Continued
6503. On passenger car buffer or foot plate, no defect.
6504. In passenger cars, not elsewhere classified.
6505. Stepping or jumping between locomotives or cars in the same train (Use Codes 6502, 6503 or 6504 for passenger cars).
6506. Falling from, not otherwise classified.
6507. Stumbling, slipping or falling on, not otherwise classified.
Stumbling, stepping, slipping or falling, other than on, or from, locomotives or cars, as follows: [15]
6511. On snow or ice.
6512. Falling off or through bridges, trestles or retaining walls, equipped with handrails.
6513. Falling off or through bridges, trestles or retaining walls, not equipped with handrails.
6514. On stairways, ramps, station platforms, etc.
6515. Falling into transfer table, turntable, inspection or other pits.
6516. Stepping or tripping into holes or depressions.
6517. On switch or signal parts in place.
6518. On rails, ties or other parts of track in place.
6519. On loose or piled track material.
6520. On nails, splinters or other sharp materials or sharp trash.
6521. On coal, boards or other loose material or loose trash.
Caught, pinched or crushed, while not on locomotives or cars: [16]
Between locomotive or car and fixed structure: [17]
Less than standard side clearance (notification by warning devices, signs, written instructions, etc.):
6531. Negligence of employee.
6532. Negligence of nonemployee.
Less than standard side clearance (no notification): [5]
6533. Negligence of employee.[4]
6534. Negligence of nonemployee.
6535. Defective railroad-owned structure.
6536. Nonrailroad-owned structure.
6537. Other causes.
Between locomotive or car and other than fixed structures:
Temporary obstruction at less than standard side clearance (authorized by railroad and employee notified of hazard): [6]
6538. Negligence of employee.
6539. Negligence of nonemployee.
Temporary obstruction at less than standard side clearance (employee not notified of hazard): [6] [7]
6540. Negligence of employee.[4]
6541. Negligence of nonemployee.
6542. Railroad-owned or placed obstruction.
6543. Nonrailroad-owned or placed obstruction.
6544. Other causes.
Portable loading and unloading devices, gangplanks, chutes, etc., at less than standard side clearance:
6545. Negligence of employee.[4]
6546. Negligence of nonemployee.

[16] For similar accidents to persons riding on locomotives or cars, involving clearances, see Codes 5401–5453, and 6813, or getting on or off locomotives or cars see Codes 5522–5558.

[17] Includes bridges, tunnels, buildings, platforms, fueling, watering or sanding structures, pipes, signs, mail chutes, etc.

6. MISCELLANEOUS CAUSES—Continued

STUMBLING, SLIPPING, FALLING, CAUGHT, ETC., NOT ELSEWHERE CLASSIFIED—continued

Caught, pinched or crushed, while not on locomotives or cars [16]—Con.
Between locomotive or car and other than fixed structures—Con.
Portable loading and unloading devices, gangplanks, chutes, etc., at less than standard side clearance—Continued
6547. Railroad-owned devices, etc.
6548. Nonrailroad-owned devices, etc.
6549. Other causes.
Tractors, lift trucks, etc. at less than standard side clearance: [9]
6550. Negligence of employee.[4]
6551. Negligence of nonemployee.
6552. Railroad-owned tractor, etc.
6553. Nonrailroad-owned tractor, etc.
6554. Other causes.
Between locomotives and/or cars on adjacent tracks:
Less than standard side clearance (notification by warning devices, signs, written instructions, etc.):
6555. Negligence of employee.
6556. Negligence of nonemployee.
Less than standard side clearance (no notification): [3]
6557. Negligence of employee.[4]
6558. Negligence of nonemployee.
6559. Other causes.
6560. Caught by nails or splinters.
6561. While standing, walking or running beside locomotives or cars, not elsewhere classified.
6588. Other stumbling, slipping, falling, caught, pinched or crushed.*

FLYING OR FALLING OBJECTS, BURNS AND SIMILAR CAUSES

6601. Sparks, cinders or other flying objects, in eye.
6602. Stones or other objects "picked up" by train.
6603. Other injuries by flying objects.[18]
6611. Coal, coke or other material or lading falling from tenders or cars.
6621. Electrical flash, shock or burn from locomotive or car.[19]
6622. Electrical flash, shock or burn from third rail.[19]
6623. Electrical flash, shock or burn from catenary construction.[19]
6624. Electrical flash, shock or burn from other sources.[19]
6631. Fire or explosion of fuses or torpedoes.
6632. Fire or explosion on locomotive.[19]
6633. Fire or explosion on freight-train car (or work equipment).
6634. Fire or explosion on passenger-train car or rail motor car.
6635. Fire or explosion along right-of-way.
6636. Burned by hot or corrosive substances.
6637. Other burns, not elsewhere classified.

FLYING OR FALLING OBJECTS, BURNS AND SIMILAR CAUSES—continued

6641. Overcome by fumes or gases, not elsewhere classified.
6688. Other flying [18] or falling objects, burns and similar causes.*

OTHER ASCERTAINED CAUSES

6801. Crossing over, under or between locomotives or cars, n. o. c.
6802. Locomotive or car coming against car placed for loading or unloading.
6803. Sudden starting, stopping, lurch or jerk of locomotive or car, not elsewhere classified.
6804. Poling or roping cars.
6805. Car sides spreading or buckling beyond equipment clearance line.
While riding on locomotive or car, caught or coming in contact with: [20]
6813. Projections of material, tools, or equipment parts [21] beyond the equipment clearance line on other locomotive or car.[22]
6815. Caught by passenger car buffer or foot plate, defective.
6816. Caught by passenger car buffer or foot plate, no defect.
6817. Passenger car diaphragm, curtain missing.
6818. Passenger car diaphragm, curtain left open.
6819. Passenger car diaphragm, curtain defective.
6820. Passenger car diaphragm, curtain properly in place.
6888. Accident investigated—other ascertained cause.

UNASCERTAINED CAUSES

6948. Accident investigated-cause undetermined.
6988. Accident not investigated.

[F. R. Doc. 58-310; Filed, Jan. 14, 1958; 8:47 a. m.]

* Including information insufficient to classify.

[3] Includes warning device defective, sign obscured, etc.

[4] This negligence does not necessarily have to be negligence of the employee who is a casualty as a result of the accident, but could be negligence of another employee.

[9] Includes baggage, express, mail, or freight trucks, and all types of non-rail or non-highway material-handling vehicles.

[16] For similar accidents to persons riding on locomotives or cars, involving clearances, see Codes 5401–5453, and 6813, or getting on or off locomotives or cars see Codes 5522–5558.

[18] Not including missiles thrown or firearms discharged at trains.

[19] Except while operating locomotives (see Codes 5101 to 5199).

[20] See also Code numbers 5401–5453.

[21] Except as classified in Code 6805.

[22] For lading, blocking, stakes, steel banding or other tiedowns or dunnage, projecting beyond equipment clearance line, see Codes 6003–6007.

n. o. c. Not otherwise classified.

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

The regulations set forth below are prescribed under sections 531 to 537, inclusive, of the Internal Revenue Code of 1954, as amended by the act of August 11, 1955 (Pub. Law 367, 84th Cong., 69 Stat. 689). Except as otherwise stated in the regulations, the rules are applicable for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

CORPORATIONS USED TO AVOID INCOME TAX ON SHAREHOLDERS

CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS

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1.537 Statutory provisions; reasonable needs of the business.
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CORPORATIONS USED TO AVOID INCOME TAX ON SHAREHOLDERS

CORPORATIONS IMPROPERLY ACCUMULATING SURPLUS

§ 1.531 *Statutory provisions; imposition of accumulated earnings tax.*

SEC. 531. *Imposition of accumulated earnings tax.* In addition to other taxes imposed by this chapter, there is hereby imposed for

each taxable year on the accumulated taxable income (as defined in section 535) of every corporation described in section 532, an accumulated earnings tax equal to the sum of—

(1) 27½ percent of the accumulated taxable income not in excess of $100,000, plus

(2) 38½ percent of the accumulated taxable income in excess of $100,000.

§ 1.531–1 *Imposition of tax.* Section 531 imposes (in addition to the other taxes imposed upon corporations by chapter 1 of the Internal Revenue Code of 1954) a graduated tax on the accumulated taxable income of every corporation described in section 532 and § 1.532–1. All of the taxes on corporations under chapter 1 are treated as one tax for purposes of assessment, collection, payment, period of limitations, etc. See section 535 and §§ 1.535–1, 1.535–2, and 1.535–3 for the definition and determination of accumulated taxable income.

§ 1.532 *Statutory provisions; corporations subject to accumulated earnings tax.*

SEC. 532. *Corporations subject to accumulated earnings tax*—(a) *General rule.* The accumulated earnings tax imposed by section 531 shall apply to every corporation (other than those described in subsection (b)) formed or availed of for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of being divided or distributed.

(b) *Exceptions.* The accumulated earnings tax imposed by section 531 shall not apply to—

(1) A personal holding company (as defined in section 542).

(2) A foreign personal holding company (as defined in section 552), or

(3) A corporation exempt from tax under subchapter F (section 501 and following).

§ 1.532–1 *Corporations subject to accumulated earnings tax*—(a) *General rule.* (1) The tax imposed by section 531 applies to any domestic or foreign corporation (not specifically excepted under section 532 (b) and paragraph (b) of this section) formed or availed of to avoid or prevent the imposition of the individual income tax on its shareholders, or on the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of dividing or distributing them. See section 533 and § 1.533–1, relating to evidence of purpose to avoid income tax with respect to shareholders.

(2) The tax imposed by section 531 may apply if the avoidance is accomplished through the formation or use of one corporation or a chain of corporations. For example, if the capital stock of the M Corporation is held by the N Corporation, the earnings and profits of the M Corporation would not be returned as income subject to the individual income tax until such earnings and profits of the M Corporation were distributed to the N Corporation and distributed in turn by the N Corporation to its shareholders. If either the M Corporation or the N Corporation was formed or is availed of for the purpose of avoiding or preventing the imposition of the individual income tax upon the shareholders of the N Corporation, the accumulated taxable income of the corporation so formed or availed of (M or N, as the case may be) is subject to the tax imposed by section 531.

(b) *Exceptions.* The accumulated earnings tax imposed by section 531 does not apply to a personal holding company (as defined in section 542), to a foreign personal holding company (as defined in section 552), or to a corporation exempt from tax under subchapter F of chapter 1 of the Internal Revenue Code of 1954.

(c) *Foreign corporations.* Section 531 is applicable to any foreign corporation, whether resident or nonresident, with respect to any income derived from sources, within the United States, if any of its shareholders are subject to income tax on the distributions of the corporation by reason of being (1) citizens or residents of the United States, or (2) nonresident alien individuals to whom section 871 is applicable, or (3) foreign corporations if a beneficial interest therein is owned directly or indirectly by any shareholder specified in subparagraph (1) or (2) of this paragraph.

§ 1.533 *Statutory provisions; evidence of purpose to avoid income tax.*

§ SEC. 533. *Evidence of purpose to avoid income tax*—(a) *Unreasonable accumulation determinative of purpose.* For purposes of section 532, the fact that the earnings and profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid the income tax with respect to shareholders, unless the corporation by the preponderance of the evidence shall prove to the contrary.

(b) *Holding or investment company.* The fact that any corporation is a mere holding or investment company shall be prima facie evidence of the purpose to avoid the income tax with respect to shareholders.

§ 1.533–1 *Evidence of purpose to avoid income tax*—(a) *In general.* (1) The Comissioner's determination that a corporation was formed or availed of for the purpose of avoiding income tax with respect to shareholders is subject to disproof by competent evidence. Section 533 (a) provides that the fact that earnings and profits of a corporation are permitted to accumulate beyond the reasonable needs of the business shall be determinative of the purpose to avoid the income tax with respect to shareholders unless the corporation, by the preponderance of the evidence, shall prove to the contrary. The burden of proving that earnings and profits have been permitted to accumulate beyond the reasonable needs of the business may be shifted to the Commissioner under section 534. See §§ 1.534–1 through 1.534–4. Section 533 (b) provides that the fact that the taxpayer is a mere holding or investment company shall be prima facie evidence of the purpose to avoid the income tax with respect to shareholders. However, the existence or nonexistence of the purpose may be indicated by circumstances other than the conditions specified in section 533. Whether or not such purpose was present depends upon the particular circumstances of each case. All the other circumstances which might be construed as evidence of the purpose to avoid income tax with respect to shareholders cannot be outlined, but among other things the following will be considered:

(i) Dealings between the corporation and its shareholders, such as withdrawals by the shareholders as personal loans or the expenditure of funds by the corporation for the personal benefit of the shareholders, and

(ii) The investment by the corporation of undistributed earnings in assets having no reasonable connection with the business.

(2) The mere fact that the corporation distributed a large portion of its earnings for the year in question does not necessarily prove that the corporation was not formed or availed of to avoid income tax upon shareholders. On the other hand, the fact that a corporation is a mere holding or investment company or has an accumulation of earnings and profits in excess of the reasonable needs of the business is not absolutely conclusive against it if, by the preponderance of the evidence, the taxpayer satisfies the Commissioner that the corporation was neither formed nor availed of for the purpose of avoiding income tax with respect to shareholders.

(b) *General burden of proof and statutory presumptions.* The Commissioner may determine that the taxpayer was formed or availed of to avoid income tax with respect to shareholders through the medium of permitting earnings and profits to accumulate. In the case of litigation involving any such determination (except where the burden of proof is on the Commissioner under section 534), the burden of proving such determination wrong by a preponderance of the evidence, together with the corresponding burden of first going forward with the evidence, is on the taxpayer under principles applicable to income tax cases generally. For the burden of proof in a proceeding before the Tax Court with respect to the allegation that earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, see section 534 and §§ 1.534–2 through 1.534–4. For a definition of a holding or investment company, see paragraph (c) of this section. For determination of the reasonable needs of the business, see section 537 and §§ 1.537–1 through 1.537–3. If the taxpayer is a mere holding or investment company, and the Commissioner therefore determines that the corporation was formed or availed of for the purpose of avoiding income tax with respect to shareholders, then section 533 (b) gives further weight to the presumption of correctness already arising from the Commissioner's determination by expressly providing an additional presumption of the existence of a purpose to avoid income tax with respect to shareholders. Further, if it is established (after complying with section 534 where applicable) that earnings and profits were permitted to accumulate beyond the reasonable needs of the business and the Commissioner has therefore determined that the corporation was formed or availed of for the purpose of avoiding income tax with respect to shareholders, then section 533 (a) adds still more weight to the Commissioner's determination. Under such circum-

stances, the existence of such an accumulation is made determinative of the purpose to avoid income tax with respect to shareholders unless the taxpayer proves to the contrary by the preponderance of the evidence.

(c) *Holding or investment company.* A corporation having practically no activities except holding property and collecting the income therefrom or investing therein shall be considered a holding company within the meaning of section 533 (b). If the activities further include, or consist substantially of, buying and selling stocks, securities, real estate, or other investment property (whether upon an outright or marginal basis) so that the income is derived not only from the investment yield but also from profits upon market fluctuations, the corporation shall be considered an investment company within the meaning of section 533 (b).

§ 1.533–2 *Statement required.* The corporation may be required to furnish a statement of its accumulated earnings and profits, the payment of dividends, the name and address of, and number of shares held by, each of its shareholders, the amounts that would be payable to each of the shareholders if the income of the corporation were distributed, and other information required under section 6042.

§ 1.534 *Statutory provisions; burden of proof.*

SEC. 534. *Burden of proof*—(a) *General rule.* In any proceeding before the Tax Court involving a notice of deficiency based in whole or in part on the allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, the burden of proof with respect to such allegation shall—

(1) If notification has not been sent in accordance with subsection (b), be on the Secretary or his delegate, or

(2) If the taxpayer has submitted the statement described in subsection (c), be on the Secretary or his delegate with respect to the grounds set forth in such statement in accordance with the provisions of such subsection.

(b) *Notification by Secretary.* Before mailing the notice of deficiency referred to in subsection (a), the Secretary or his delegate may send by registered mail a notification informing the taxpayer that the proposed notice of deficiency includes an amount with respect to the accumulated earnings tax imposed by section 531. In the case of a notice of deficiency to which subsection (e) (2) applies and which is mailed on or before the 30th day after the date of the enactment of this sentence, the notification referred to in the preceding sentence may be mailed at any time on or before such 30th day.

(c) *Statement by taxpayer.* Within such time (but not less than 30 days) after the mailing of the notification described in subsection (b) as the Secretary or his delegate may prescribe by regulations, the taxpayer may submit a statement of the grounds (together with facts sufficient to show the basis thereof) on which the taxpayer relies to establish that all or any part of the earnings and profits have not been permitted to accumulate beyond the reasonable needs of the business.

(d) *Jeopardy assessment.* If pursuant to section 6861 (a) a jeopardy assessment is made before the mailing of the notice of deficiency referred to in subsection (a), for purposes of this section such notice of deficiency shall, to the extent that it informs the taxpayer that such deficiency includes the accumulated earnings tax imposed by section 531, constitute the notification described in subsection (b), and in that event the statement described in subsection (c) may be included in the taxpayer's petition to the Tax Court.

(e) *Application of section.* (1) Notwithstanding any other provision of law, this section shall apply with respect to taxable years to which this subchapter applies and (except as provided in paragraph (2)) to taxable years to which the corresponding provisions of prior revenue laws apply.

(2) In the case of a notice of deficiency for a taxable year to which this subchapter does not apply, this section shall apply only in the case of proceedings tried on the merits after [August 11, 1955] the date of the enactment of this paragraph.

[Sec. 534, as amended by secs. 4 and 5, Act of Aug. 11, 1955 (Pub. Law 367, 84th Cong., 69 Stat. 689)]

§ 1.534–1 *Burden of proof as to unreasonable accumulations generally.* For purposes of applying the presumption provided for in section 533 (a) and in determining the extent of the accumulated earnings credit under section 535 (c) (1), the burden of proof with respect to an allegation by the Commissioner that all or any part of the earnings and profits of the corporation have been permitted to accumulate beyond the reasonable needs of the business may vary under section 534 as between litigation in the Tax Court and that in any other court. In case of a proceeding in a court other than the Tax Court, see paragraph (b) of § 1.533–1.

§ 1.534–2 *Burden of proof as to unreasonable accumulations in cases before the Tax Court*—(a) *Burden of proof on Commissioner.* Under the general rule provided in section 534 (a), in any proceeding before the Tax Court involving a notice of deficiency based in whole or in part on the allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, the burden of proof with respect to such allegation is upon the Commissioner if—

(1) A notification, as provided for in section 534 (b) and paragraph (c) of this section, has not been sent to the taxpayer; or

(2) A notification, as provided for in section 534 (b) and paragraph (c) of this section, has been sent to the taxpayer and, in response to such notification, the taxpayer has submitted a statement, as provided in section 534 (c) and paragraph (d) of this section, setting forth the ground or grounds (together with facts sufficient to show the basis thereof) on which it relies to establish that all or any part of its earnings and profits have not been permitted to accumulate beyond the reasonable needs of the business. However, the burden of proof in the latter case is upon the Commissioner only with respect to the relevant ground or grounds set forth in the statement submitted by the taxpayer, and only if such ground or grounds are supported by facts sufficient to show the basis thereof.

(b) *Burden of proof on the taxpayer.* The burden of proof in a Tax Court proceeding with respect to an allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business is upon the taxpayer if—

(1) A notification, as provided for in section 534 (b) and paragraph (c) of this section, has been sent to the taxpayer and the taxpayer has not submitted a statement, in response to such notification, as provided in section 534 (c) and paragraph (d) of this section; or

(2) A statement has been submitted by the taxpayer in response to such notification, but the ground or grounds on which the taxpayer relies are not relevant to the allegation or, if relevant, the facts are not sufficient to show the basis thereof.

(c) *Notification to the taxpayer.* Under section 534 (b) a notification informing the taxpayer that the proposed notice of deficiency includes an amount with respect to the accumulated earnings tax imposed by section 531 may be sent by registered mail to the taxpayer at any time before the mailing of the notice of deficiency in the case of a taxable year beginning after December 31, 1953, and ending after August 16, 1954. See § 1.534–4 for rules relating to taxable years subject to the Internal Revenue Code of 1939. See section 534 (d) and § 1.534–3 with respect to a notification in the case of a jeopardy assessment.

(d) *Statement by taxpayer.* (1) A taxpayer who has received a notification, as provided in section 534 (b) and paragraph (c) of this section, that the proposed notice of deficiency includes an amount with respect to the accumulated earnings tax imposed by section 531, may, under section 534 (c), submit a statement that all or any part of the earnings and profits of the corporation have not been permitted to accumulate beyond the reasonable needs of the business. Such statement shall set forth the ground or grounds on which the taxpayer relies that there has been no accumulation of earnings and profits beyond the reasonable needs of the business, together with facts sufficient to show the basis thereof. See paragraphs (a) and (b) of this section for rules concerning the effect of the statement with respect to burden of proof. See §§ 1.537–1 to 1.537–3, inclusive, relating to reasonable needs of the business.

(2) The taxpayer's statement, under section 534 (c) and this paragraph, must be submitted to the Internal Revenue office which issued the notification (referred to in section 534 (b) and paragraph (c) of this section) within 60 days after the mailing of such notification. If the taxpayer is unable, for good cause, to submit the statement within such 60-day period, an additional period not exceeding 30 days may be granted upon receipt in the Internal Revenue office concerned (before the expiration of the 60-day period provided herein) of a request from the taxpayer, setting forth the reasons for such request. See section 534 (d) and § 1.534–3 with respect to a statement in the case of a jeopardy assessment.

§ 1.534–3 *Jeopardy assessments in Tax Court cases.* In the case of a jeopardy assessment, a notice of deficiency is required to be sent to the taxpayer by registered mail within 60 days after the making of the assessment. See section 6861. If a jeopardy assessment is made before the mailing of the deficiency notice, then in the case of a proceeding in the Tax Court, if the deficiency notice informs the taxpayer that an amount of accumulated earnings tax is included in the deficiency, such notice shall constitute the notification provided for in section 534 (b) and paragraph (c) of § 1.534–2. Under such circumstances the statement described in section 534 (c) and paragraph (d) of § 1.534–2 shall instead be included in the taxpayer's petition to the Tax Court, if the taxpayer desires to submit such statement. See paragraph (b) of § 1.534–2, relating to burden of proof on the taxpayer.

§ 1.534–4 *Taxable years subject to the Internal Revenue Code of 1939.* The rules prescribed in §§ 1.534–1 to 1.534–3, inclusive, apply in any proceeding tried on the merits after August 11, 1955, before the Tax Court and involving a notice of deficiency in surtax imposed by section 102 of the Internal Revenue Code of 1939, for a taxable year subject to such code, based in whole or in part on the allegation that all or any part of the earnings and profits of the taxpayer have been permitted to accumulate beyond the reasonable needs of the business. If a notice of deficiency for a taxable year described in the preceding sentence was mailed before September 11, 1955, a notification mailed before that date shall be effective as fully as though such notification had been mailed before the notice of deficiency was mailed.

§ 1.535 *Statutory provisions; accumulated taxable income.*

SEC. 535. *Accumulated taxable income*—(a) *Definition.* For purposes of this subtitle, the term "accumulated taxable income" means the taxable income, adjusted in the manner provided in subsection (b), minus the sum of the dividends paid deduction (as defined in section 561) and the accumulated earnings credit (as defined in subsection (c)).

(b) *Adjustments to taxable income.* For purposes of subsection (a), taxable income shall be adjusted as follows:

(1) *Taxes.* There shall be allowed as a deduction Federal income and excess profits taxes (other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940) and income, war profits, and excess profits taxes of foreign countries and possessions of the United States (to the extent not allowable as a deduction under section 164 (b) (6)), accrued during the taxable year, but not including the accumulated earnings tax imposed by section 531, the personal holding company tax imposed by section 541, or the taxes imposed by corresponding sections of a prior income tax law.

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed without regard to the limitation in section 170 (b) (2).

(3) *Special deductions disallowed.* The special deductions for corporations provided in part VIII (except section 248) of subchapter B (section 241 and following, relating to the deduction for dividends received by corporations, etc.) shall not be allowed.

(4) *Net operating loss.* The net operating loss deduction provided in section 172 shall not be allowed.

(5) *Capital losses.* There shall be allowed as deductions losses from sales or exchanges of capital assets during the taxable year which are disallowed as deductions under section 1211 (a).

(6) *Long-term capital gains.* There shall be allowed as a deduction the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year (determined without regard to the capital loss carryover provided in section 1212) minus the taxes imposed by this subtitle attributable to such excess. The taxes attributable to such excess shall be an amount equal to the difference between—

(A) The taxes imposed by this subtitle (except the tax imposed by this part) for such year, and

(B) Such taxes computed for such year without including such excess in taxable income.

(7) *Capital loss carryover.* No allowance shall be made for the capital loss carryover provided in section 1212.

(8) *Bank affiliates.* There shall be allowed the deduction described in section 601 (relating to bank affiliates).

(c) *Accumulated earnings credit*—(1) *General rule.* For purposes of subsection (a), in the case of a corporation other than a mere holding or investment company the accumulated earnings credit is (A) an amount equal to such part of the earnings and profits for the taxable year as are retained for the reasonable needs of the business, minus (B) the deduction allowed by subsection (b) (6). For purposes of this paragraph, the amount of the earnings and profits for the taxable year which are retained is the amount by which the earnings and profits for the taxable year exceed the dividends paid deduction (as defined in section 561) for such year.

(2) *Minimum credit.* The credit allowable under paragraph (1) shall in no case be less than the amount by which $60,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year.

(3) *Holding and investment companies.* In the case of a corporation which is a mere holding or investment company, the accumulated earnings credit is the amount (if any) by which $60,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year.

(4) *Accumulated earnings and profits.* For purposes of paragraphs (2) and (3), the accumulated earnings and profits at the close of the preceding taxable year shall be reduced by the dividends which under section 563 (a) (relating to dividends paid after the close of the taxable year) are considered as paid during such taxable year.

(5) *Cross reference.* For denial of credit provided in paragraph (2) or (3) where multiple corporations are formed to avoid tax, see section 1551.

§ 1.535–1 *Definition.* (a) The accumulated earnings tax is imposed by section 531 on the accumulated taxable income. Accumulated taxable income is the taxable income of the corporation with the adjustments prescribed by section 535 (b) and § 1.535–2, minus the sum of the dividends paid deduction and the accumulated earnings credit. See section 561 and the regulations thereunder, relating to the definition of the deduction for dividends paid, and section 535 (c) and § 1.535–3, relating to the accumulated earnings credit.

(b) In the case of a foreign corporation, whether resident or nonresident, which files or causes to be filed a return, the accumulated taxable income shall be the taxable income from sources within the United States with the adjustments prescribed by section 535 (b) and § 1.535–2 minus the sum of the dividends paid deduction and the accumulated earnings credit. In the case of a foreign corporation which files no return, the accumulated taxable income shall be the gross income from sources within the United States without allowance of any deductions (including the accumulated earnings credit).

§ 1.535–2 *Adjustments to taxable income*—(a) *Taxes*—(1) *United States taxes.* In computing accumulated taxable income for any taxable year, there shall be allowed as a deduction the amount by which Federal income and excess profits taxes accrued during the taxable year exceed the credit provided by section 33 (relating to taxes of foreign countries and possessions of the United States), except that no deduction shall be allowed for (i) the accumulated earnings tax imposed by section 531 (or a corresponding section of a prior law), (ii) the personal holding company tax imposed by section 541 (or a corresponding section of a prior law), and (iii) the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939, for taxable years beginning after December 31, 1940. The deduction is for taxes accrued during the taxable year, regardless of whether the corporation uses an accrual method of accounting the cash receipts and disbursements method, or any other allowable method of accounting. In computing the amount of taxes accrued, an unpaid tax which is being contested is not considered accrued until the contest is resolved.

(2) *Taxes of foreign countries and United States possessions.* In computing accumulated taxable income for any taxable year, a deduction is allowed for income, war profits, and excess profits taxes accrued during such taxable year to foreign countries or possessions of the United States if the taxpayer chooses the benefits of section 901 for such taxable year. The credit for such taxes provided by section 901 is not allowed against the accumulated earnings tax imposed by section 531. See section 901 (a).

(b) *Charitable contributions.* Section 535 (b) (2) provides that, in computing the accumulated taxable income of a corporation, the deduction for charitable contributions shall be computed without regard to the limitation in section 170 (b) (2). Thus, the amount of charitable contributions made during the taxable year not allowable as a deduction under section 170 by reason of the limitations imposed by section 170 (b) (2) shall be allowed as a deduction in computing accumulated taxable income for the taxable year. Any excess of the amount of the charitable contributions made in a prior taxable year over the amount allowed as a deduction under section 170 for

such year shall not be allowed as a deduction from taxable income in computing accumulated taxable income for the taxable year.

(c) *Special deductions disallowed.* Sections 241 through 248 provide for the allowance of special deductions for such items as partially tax-exempt interest, certain dividends received, dividends paid on certain preferred stock of public utilities, and organizational expenses. Such special deductions, except the deduction provided by section 248 (relating to organizational expenses) shall be disallowed in computing accumulated taxable income.

(d) *Net operating loss.* The net operating loss deduction provided in section 172 is not allowed for purposes of computing accumulated taxable income.

(e) *Capital losses.* (1) Losses from sales or exchanges of capital assets during the taxable year, which are disallowed as deductions under section 1211 (a) in computing taxable income, shall be allowed as deductions in computing accumulated taxable income.

(2) The computation of the capital losses allowable as a deduction in computing accumulated taxable income may be illustrated by the following example:

Example. X Corporation has capital losses of $30,000 which are disallowed under section 1211 (a) for the taxable year ended December 31, 1956. This amount represents a loss of $25,000 from the sale or exchange of capital assets during the taxable year ended December 31, 1956, plus a $5,000 capital loss carryover resulting from the sale or exchange of capital assets during the taxable year ended December 31, 1955. In computing accumulated taxable income for the taxable year ended December 31, 1956, only the loss of $25,000 arising from the sale or exchange of capital assets during that taxable year will be allowed as a deduction.

(f) *Long-term capital gains.* (1) There is allowed as a deduction in computing accumulated taxable income, the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year (determined without regard to the capital loss carryover provided in section 1212) minus the taxes attributable to such excess as provided by section 535 (b) (6). The tax attributable to such excess is the difference between—

(i) The taxes (except the accumulated earnings tax) imposed by subtitle A for such year, and

(ii) The taxes (except the accumulated earnings tax) imposed by subtitle A computed for such year as if taxable income were reduced by the excess of the net long-term capital gain over net short-term capital loss (including the capital loss carryover to such year).

Where the tax (except the accumulated earnings tax) imposed by subtitle A includes an amount computed under section 1201 (a) (2), the tax attributable to such excess is such amount computed under section 1201 (a) (2).

(2) The application of the rule in subparagraph (1) of this paragraph may be illustrated by the following example:

Example. Assume that D Corporation, for the taxable year ended December 31, 1956, has taxable income of $103,000 of which $3,000 is the excess of net long-term capital gain of $12,000 over a net short-term capital loss of $9,000. The $9,000 net short-term capital loss includes a capital loss carryover of $5,000. The amount allowable as a deduction under section 535 (b) (6) and subparagraph (1) of this paragraph is $7,250, computed as follows: Net long-term capital gain less net short-term capital loss (computed without regard to the capital loss carryover) is $8,000 (that is, $12,000 net long-term capital gain less $4,000 net short-term capital loss computed without regard to the capital loss carryover of $5,000). The tax attributable to the excess of net long-term capital gain over net short-term capital loss (computed by taking the capital loss carryover into account) is $750, that is, 25 percent of such excess of $3,000, computed under section 1201 (a) (2). The difference of $7,250 ($8,000 less $750) is the amount allowable as a deduction in computing accumulated taxable income.

(3) Section 631 (c) (relating to gain or loss in the case of disposal of coal) shall have no application in determining the amount of the deduction allowable under section 535 (b) (6).

(g) *Capital loss carryover.* The capital loss carryover provided in section 1212 is not allowed for purposes of computing accumulated taxable income.

(h) *Bank affiliates.* There is allowed the deduction provided by section 601 in the case of bank affiliates (as defined in section 2 of the Banking Act of 1933; 12 U. S. C. 221a (c)).

§ 1.535–3 *Accumulated earnings credit*—(a) *In general.* As provided in section 535 (a) and § 1.535–1, the accumulated earnings credit, provided by section 535 (c), reduces taxable income in computing accumulated taxable income. In the case of a corporation, not a mere holding or investment company, the accumulated earnings credit is determined as provided in paragraph (b) of this section and, in the case of a holding or investment company, as provided in paragraph (c) of this section.

(b) *Corporation which is not a mere holding or investment company*—(1) *General rule.* (i) In the case of a corporation, not a mere holding or investment company, the accumulated earnings credit is the amount equal to such part of the earnings and profits of the taxable year which is retained for the reasonable needs of the business, minus the deduction allowed by section 535 (b) (6) (see paragraph (f) of § 1.535–2, relating to the deduction for long-term capital gains). In no event shall the accumulated earnings credit be less than the minimum credit provided for in section 535 (c) (2) and subparagraph (2) of this paragraph. The amount of the earnings and profits for the taxable year retained is the amount by which the earnings and profits for the taxable year exceed the dividends paid deduction for such taxable year. See section 561 and the regulations thereunder, relating to the definition of the deduction for dividends paid.

(ii) In determining whether any amount of the earnings and profits of the taxable year has been retained for the reasonable needs of the business, the accumulated earnings and profits of prior years will be taken into consideration. Thus, for example, if such accumulated earnings and profits of prior years are sufficient for the reasonable needs of the business, then any earnings and profits of the current taxable year which are retained will not be considered to be retained for the reasonable needs of the business. See section 537 and §§ 1.537–1 and 1.537–2.

(2) *Minimum credit.* Section 535 (c) (2) provides for the allowance of a minimum accumulated earnings credit in the case of a corporation which is not a mere holding or investment company. In the case of such a corporation, this minimum credit shall in no case be less than the amount by which $60,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. See paragraph (d) of this section for the effect of dividends paid after the close of the taxable year in determining accumulated earnings and profits at the close of the preceding taxable year. In determining the amount of the minimum credit allowable under section 535 (c) (2), the needs of the business are not taken into consideration. If the taxpayer has accumulated earnings and profits at the close of the preceding taxable year equal to or in excess of $60,000, the credit, if any, is determined without regard to section 535 (c) (2). It is not intended that the provision for the minimum credit shall in any way create an inference that an accumulation in excess of $60,000 is unreasonable. The reasonable needs of the business may require the accumulation of more or less than $60,000 depending upon the circumstances in the case, but such needs shall not be taken into consideration to any extent in cases where the minimum accumulated earnings credit is applicable. For a discussion of the reasonable needs of the business, see section 537 and §§ 1.537–1, 1.537–2, and 1.537–3.

(3) *Illustrations of accumulated earnings credit.* The computation of the accumulated earnings credit provided by section 535 (c) may be illustrated by the following examples:

Example (1). The X Corporation, which is not a mere holding or investment company, has accumulated earnings and profits in the amount of $75,000 as of December 31, 1955; it has earnings and profits for the taxable year ended December 31, 1956, in the amount of $100,000 and has a dividends paid deduction under section 561 in the amount of $30,000 so that the earnings and profits for the taxable year which are retained in the business amount to $70,000. Assume that it has been determined that the earnings and profits for the taxable year which may be retained for the reasonable needs of the business amount to $55,000 and that a deduction has been allowed under section 535 (b) (6) in the amount of $5,000. Since the earnings and profits at the close of the preceding taxable year, December 31, 1955, exceed $60,000, the minimum credit provided by section 535 (c) (2) will not apply and the accumulated earnings credit must be computed under section 535 (c) (1) on the basis of the reasonable needs of the business. In this case, the accumulated earnings credit

for the taxable year ended December 31, 1956, will be $50,000, computed as follows:

Earnings and profits of the taxable year determined to be retained for the reasonable needs of the business	$55,000
Less: The deduction for long-term capital gains (less applicable tax) allowed under section 535 (b) (6)	5,000
Accumulated earnings credit allowable under section 535 (c) (1)	50,000

Example (2). The Z Corporation, which is not a mere holding or investment company, has accumulated earnings and profits in the amount of $15,000 as of December 31, 1955; it has earnings and profits for the taxable year ended December 31, 1956, in the amount of $75,000 and has a dividends paid deduction under section 561 in the amount of $10,000, so that the earnings and profits for the taxable year which are retained amount to $65,000. Assume that it has been determined that the accumulated earnings and profits of the taxable year which may be retained for the reasonable needs of the business amount to $20,000 and that no deduction is allowable for long-term capital gains under section 535 (b) (6). The accumulated earnings credit allowable under section 535 (c) (1) on the basis of the reasonable needs of the business is determined to be only $20,000. However, since the amount by which $60,000 exceeds the accumulated earnings and profits at the close of the preceding taxable year is more than $20,000, the minimum accumulated earnings credit provided by section 535 (c) (2) is applicable. The allowable credit will be the amount by which $60,000 exceed the accumulated earnings and profits at the close of the preceding taxable year, i. e., $45,000 ($60,000 less $15,000 of accumulated earnings and profits at the close of the preceding taxable year).

(c) *Holding and investment companies.* Section 535 (c) (3) provides that, in the case of a mere holding or investment company, the accumulated earnings credit shall be the amount, if any, by which $60,000 exceeds the accumulated earnings and profits of the corporation at the close of the preceding taxable year. Thus, if such a corporation has accumulated earnings equal to, or in excess of, $60,000 at the close of its preceding taxable year, no accumulated earnings credit is allowable in computing the accumulated taxable income. See paragraph (c) of § 1.433–1 for a definition of a holding or investment company.

(d) *Accumulated earnings and profits.* For the purposes of determining the minimum credit provided by section 535 (c) (2) and paragraph (b) (2) of this section, and the credit provided by section 535 (c) (3) and paragraph (c) of this section, dividends paid after the close of any taxable year which are considered paid during such taxable year, shall be deducted from the earnings and profits accumulated at the close of such taxable year. See section 563 and the regulations thereunder, relating to dividends paid after the close of the taxable year and dividends considered as paid on the last day of the taxable year.

§ 1.536 *Statutory provisions; income not placed on annual basis.*

SEC. 536. *Income not placed on annual basis.* Section 443 (b) (relating to computation of tax on change of annual accounting period) shall not apply in the computation of the accumulated earnings tax imposed by section 531.

§ 1.536–1 *Short taxable years.* Accumulated taxable income for a taxable year consisting of a period of less than 12 months shall not be placed on an annual basis for the purpose of the accumulated earnings tax imposed by section 531. In such cases accumulated taxable income shall be computed on the basis of the taxable income for such period of less than 12 months, adjusted in the manner provided by section 535 (b) and § 1.535–2.

§ 1.537 *Statutory provisions; reasonable needs of the business.*

SEC. 537. *Reasonable needs of the business.* For purposes of this part, the term "reasonable needs of the business" includes the reasonable anticipated needs of the business.

§ 1.537–1 *Reasonable needs of the business*—(a) *In general.* The term "reasonable needs of the business" includes the reasonably anticipated needs of the business. An accumulation of the earnings and profits (including the undistributed earnings and profits of prior years) is in excess of the reasonable needs of the business if it exceeds the amount that a prudent businessman would consider appropriate for the present business purposes and for the reasonably anticipated future needs of the business. The need to retain earnings and profits must be directly connected with the needs of the corporation itself and must be for bona fide business purposes. See § 1.537–3 for a discussion of what constitutes the business of the corporation. The mere fact that the corporation distributed a large portion of its earnings and profits for the taxable year does not necessarily prove that earnings and profits were not permitted to accumulate beyond the reasonable needs of the business. See § 1.537–2, relating to grounds for accumulation of earnings and profits.

(b) *Reasonable anticipated needs.* (1) In order for a corporation to justify an accumulation of earnings and profits for reasonably anticipated future needs, there must be a clear indication that the future needs of the business require such accumulation, and the corporation must have specific, definite, and feasible plans for the use of such accumulation. Such an accumulation need not be used immediately, nor must the plans for its use be consummated within a short period after the close of the taxable year, provided that such accumulation will be used within a reasonable time depending upon all the facts and circumstances relating to the future needs of the business. Where the future needs of the business are uncertain or vague, or the plans for the future use of the accumulations are uncertain, or where execution of a definite plan is postponed indefinitely, an accumulation cannot be justified on the grounds of reasonably anticipated needs of the business.

(2) Consideration shall be given to reasonably anticipated needs as they exist on the basis of the facts at the close of the taxable year. Thus, subsequent events shall not be used for the purpose of showing that the retention of earnings or profits was unreasonable at the close of the taxable year if all the elements of reasonable anticipation are present at the close of such taxable year. However, subsequent events may be considered to determine whether the taxpayer actually intended to consummate or has actually consummated the plans for which the earnings and profits were accumulated. In this connection, projected expansion or investment plans shall be reviewed in the light of the facts during each year and as they exist as of the close of the taxable year. If a corporation has justified an accumulation for future needs by plans never consummated, such an accumulation shall be taken into account in determining the reasonableness of subsequent accumulations.

§ 1.537–2 *Grounds for accumulation of earnings and profits*—(a) *In general.* Whether a particular ground or grounds for the accumulation of earnings and profits indicate that the earnings and profits have been accumulated for the reasonable needs of the business or beyond such needs is dependent upon the particular circumstances of the case. Listed below in paragraphs (b) and (c) of this section are some of the grounds which may be used as guides under ordinary circumstances.

(b) *Reasonable accumulation of earnings and profits.* Although the following grounds are not exclusive, one or more of such grounds, if supported by sufficient facts, may indicate that the earnings and profits of a corporation are being accumulated for the reasonable needs of the business provided the general requirements under §§ 1.537–1 and 1.537–3 are satisfied:

(1) To provide for bona fide expansion of business or replacement of plant, with such proposed expansion or replacement reasonably imminent;

(2) To acquire a business enterprise through purchasing stock or assets;

(3) To provide for the retirement of bona fide indebtedness created in connection with the trade or business, such as the establishment of a sinking fund for the purpose of retiring bonds issued by the corporation in accordance with contract obligations incurred on issue;

(4) To provide necessary working capital for the business, such as, for the procurement of inventories; or

(5) To provide for investments or loans to suppliers or customers if necessary in order to maintain the business of the corporation.

(c) *Unreasonable accumulations of earnings and profits.* Although the following purposes are not exclusive, accumulations of earnings and profits to meet any one of such objectives will generally be considered as accumulations beyond the reasonable needs of the business:

(1) Loans to shareholders, or the expenditure of funds of the corporation for the personal benefit of the shareholders;

(2) Loans to relatives, or friends, of shareholders or to persons not essential in conducting the activities of the business;

(3) Loans to another corporation, the capital stock of which is owned, directly

or indirectly, by the shareholders of the taxpayer corporation and such shareholder or shareholders are in control of both corporations;

(4) Investments in properties, or securities which are unrelated to the activities of the business of the taxpayer corporation; or

(5) Retention of earnings and profits to provide against generalized or unrealistic hazards.

§ 1.537–3 *Business of the corporation.* (a) The business of a corporation is not merely that which it has previously carried on but includes, in general, any line of business which it may undertake.

(b) If one corporation owns the stock of another corporation in the same, or a related, line of business and, in effect, operates the other corporation, the business of the latter corporation may be considered in substance, although not in legal form, the business of the first corporation. However, investment by a corporation of its earnings and profits in stock and securities of another corporation is not, of itself, to be regarded as employment of the earnings and profits in its business. Earnings and profits of the first corporation put into the second corporation through the purchase of stock or securities or otherwise, may, if a subsidiary relationship is established, constitute employment of the earnings and profits in its own business. Thus, the business of one corporation may be regarded as including the business of another corporation if such other corporation is a mere instrumentality of the first corporation; that may be established by showing that the first corporation owns at least 80 percent of the voting stock of the second corporation. If the taxpayer's ownership of stock is less than 80 percent in the other corporation, the determination of whether the funds are employed in a business operated by the taxpayer will depend upon the particular circumstances of the case. Moreover, the business of one corporation does not include the business of another corporation if such other corporation is a personal holding company, an investment company, or a corporation not engaged in the active conduct of a trade or business.

[F. R. Doc. 58–316; Filed, Jan. 14, 1958; 8:48 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 953]

LEMONS GROWN IN CALIFORNIA AND ARIZONA

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1957–58 FISCAL YEAR

Consideration is being given to the following proposals submitted by the Lemon Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), as the agency to administer the terms and provisions thereof: (1) That the Secretary of Agriculture find that expenses not to exceed $148,800.00 will be necessarily incurred during the fiscal year ending October 31, 1958, for the maintenance and functioning of the committee established under the aforesaid amended marketing agreement and order, and (2) that the Secretary of Agriculture fix, as the pro rata share of such expenses which each handler who first handles lemons shall pay in accordance with the aforesaid amended marketing agreement and order during the aforesaid fiscal year, the rate of assessment at one cent per carton of lemons, or an equivalent quantity of lemons, handled by him as the first handler thereof during said fiscal year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D. C., not later than the close of business on the 10th day after the publication of this notice in the FEDERAL REGISTER. All documents should be filed in quadruplicate.

Terms used herein shall have the same meaning as when used in said amended marketing agreement and order.

Dated: January 10, 1958.

[SEAL] G. R. GRANGE,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58–327; Filed, Jan. 14, 1958; 8:51 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[46 CFR Part 244]

[Docket No. 765]

OCEAN FREIGHT FORWARDERS

NOTICE OF INVESTIGATION AND OF HEARING

On January 3, 1958, the Federal Maritime Board entered the following order cancelling and superseding its order of investigation dated October 6, 1954 (19 F. R. 6798) in Docket No. 765 and consolidating said investigation with its rule-making proceeding ordered March 11, 1957 (22 F. R. 1779, March 19, 1957; 22 F. R. 3931, June 5, 1957; 22 F. R. 4164, June 13, 1957; 22 F. R. 4862, July 10, 1957 and 22 F. R. 6877, August 24, 1957) proposing rules pertaining to business practices of freight forwarders:

The Federal Maritime Board has under consideration certain practices and activities of freight forwarders subject to the provisions of the Shipping Act, 1916, as amended (46 U. S. C. 801 et seq.). In connection therewith the Board, on October 6, 1954, published in the FEDERAL REGISTER (19 F. R. 6793), notice of an investigation entitled "Investigation of Practices, Operations, Actions, and Agreements of Ocean Freight Forwarders and Related Matters," Docket No. 765. The Board further, by notice of proposed rule making published in the FEDERAL REGISTER on March 19, 1957 (22 F. R. 1779), proposed rules and regulations pertaining to business practices of freight forwarders, which would modify and revise the rules and regulations presently relating to the business practices of freight forwarders prescribed by General Order 72, as amended (46 CFR 244.1 et seq.). The Board has concluded that the final form and scope of the rules and regulations which will ultimately be promulgated in the rule making proceeding should properly await the conclusion of the Board in its investigation of forwarder practices in Docket No. 765, and that the rule-making proceeding should be consolidated with said Board investigation. To that end, the Board herein will consolidate a general investigation of forwarder activities and practices with the rule making proceeding.

This order cancels and supersedes the Board's order in Docket No. 765.

It appearing: 1. That ocean freight forwarders subject to the jurisdiction of the Federal Maritime Board under provisions of the Shipping Act, 1916, as amended (46 U. S. C. 801 et seq.) may be carrying on the following activities and practices:

(a) Collecting ocean freight brokerage from ocean carriers under circumstances where the forwarder's relationship with and control of the routing of the cargo arises solely because of a freight forwarder relationship with the shipper, consignor, consignee, or other person;

(b) Waiving, failing to collect, or reducing their freight forwarding fees by reason of collection of ocean freight brokerage, or following a variation of this procedure;

(c) Sharing, directly or indirectly, ocean freight brokerage with shippers, consignors, consignees or other persons;

(d) Failing to collect uniform charges for freight forwarding services from similarly situated shippers, consignors, consignees, and/or other persons; and

(e) Engaging in practices connected with billing of freight forwarder charges which result in unequal treatment of similarly situated shippers, consignors, consignees, and/or other persons;

2. That through the foregoing activities and practices, freight forwarders may be obtaining, attempting to obtain, or allowing a person or persons to obtain transportation for property at less than the regular rates or charges then established and enforced by a carrier, or carriers, by unjust or unfair devices or means; may be giving undue or unreasonable preference or advantage to particular persons, localities, or descriptions of traffic, or subjecting persons, localities, or descriptions of traffic to undue or unreasonable prejudice or disadvantage; may be failing to establish, observe and enforce just and reasonable practices relating to or connected with the receiving, handling, storing, and delivering of property; or may be otherwise violating sections 16 and/or 17 of the Shipping Act, 1916, as amended;

3. That freight forwarders may be otherwise collecting freight brokerage from carriers, charging freight forwarding fees to shippers, consignors, consignees, or other persons, or engaging in other business practices which may be in violation of section 16 and/or 17 of the Shipping Act, 1916, as amended;

4. That freight forwarders and other persons subject to the Shipping Act, 1916, as amended, may have entered into agreements or cooperative working arrangements subject to section 15, Shipping Act, 1916, as amended, and/or may be engaging in concerted action without having obtained the approval of the Board pursuant to said section 15 of the act;

5. That the public interest requires a general inquiry and investigation, to determine the existence and/or the extent of said practices, operations, actions, agreements, cooperative working arrangements, and/or related activities among all forwarders subject to said act, to determine the lawfulness thereof under sections 15, 16, and/or 17 of the Shipping Act, 1916, as amended, and to determine the extent to which new or amended rules and regulations regarding the business practices of freight forwarders are required.

Pursuant to sections 15, 16, 17 and 22 of the Shipping Act, 1916, as amended (46 U. S. C. 814, 815, 816 and 821); section 19 of the Merchant Marine Act, 1920, as amended (46 U. S. C. 876); section 204 of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1114); the Administrative Procedure Act (5 U. S. C. 1001 et seq.); and the Board's rules of practice and procedure (46 CFR 201).

It is ordered: 1. That the Board, upon its own motion enter upon a proceeding of inquiry and investigation, to determine the lawfulness of practices, operations, actions, agreements, cooperative working arrangements, and/or related activities of ocean freight forwarders, with a view toward amending or supplementing the Board's General Order 72, as amended (46 CFR 244.1 et seq.), and/or taking such other action in the premises as may be warranted by the record;

2. That the rule making proceeding instituted by notice of proposed rule making published in the FEDERAL REGISTER on March 19, 1957 (22 F. R. 1779) be, and it is hereby consolidated with the general investigation ordered herein;

3. That the following be, and they are hereby, made respondents to this proceeding:

(a) All freight forwarders who now or hereafter hold a valid certificate of registration issued by the Federal Maritime Board pursuant to its General Order 72;

(b) All persons dispatching or facilitating shipments on behalf of other persons, by common carrier by water in commerce from the United States, its territories or possessions to foreign countries, or between the United States and its territories and possessions, or handling the formalities incident to such shipments, or otherwise carrying on the business of ocean freight forwarding; and

(c) All conferences or other associations of freight forwarders covered by items (a) and (b) hereof;

4. That this proceeding be assigned for hearing at a time and place to be hereafter designated; and

5. That this order be published in the FEDERAL REGISTER.

Pursuant to the above order, notice is hereby given that a public hearing in this proceeding will be held before an Examiner of the Board's Hearing Examiners' Office at a date and place to be determined and announced by the Chief Examiner. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and a recommended decision will be issued by the Examiner.

All persons (other than respondents in this proceeding) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board on or before February 14, 1958, and should file petitions for leave to intervene in accordance with Rule 5 (n) of said rules.

Dated: January 10, 1958.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 58-325; Filed, Jan. 14, 1958; 8:50 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. 831]

PRACTICES AND AGREEMENTS OF COMMON CARRIERS BY WATER IN CONNECTION WITH PAYMENT OF BROKERAGE OR OTHER FEES TO OCEAN FREIGHT FORWARDERS AND FREIGHT BROKERS

NOTICE OF INVESTIGATION AND OF HEARING

On January 3, 1958, the Federal Maritime Board entered the following order:

The Federal Maritime Board and its predecessor agencies have held in certain past decisions that concerted action by common carriers which prohibits payment of brokerage, or limits payment of brokerage to less than 1¼ percent, is detrimental to the commerce of the United States within the meaning of section 15 of the Shipping Act, 1916, as amended (46 U. S. C. 814). Pacific Westbound Conference Agreement (Agreement No. 7790), Docket No. 645; 2 U. S. M. C. 775 (1946); Agreements and Practices Pertaining to Brokerage and Related Matters, Docket No. 657, 3 U. S. M. C. 170 (1949); Joint Committee of Foreign Freight Forwarders Association et al. v. Pacific Westbound Conference et al. Docket Nos. 718/719, 4 F. M. B. 166 (1953).

In Agreement and Practices Pertaining to Brokerage, Pacific Coast European Conference (Agreement No. 5200), Docket No. 767; decided March 29, 1957, the Board announced that it would institute on its own motion a general investigation into brokerage and forwarding activities and practices of carriers and forwarders in the foreign commerce of the United States, to reconsider the extent to which conferences may prohibit or limit the payment of brokerage without detriment to the commerce of the United States, and to consider the extent to which the Board may control or limit the payment of brokerage by individual carriers.

Now, therefore, pursuant to sections 15, 16, 17 and 22 of the Shipping Act, 1916, as amended (46 U. S. C. 814, 815, 816 and 821); section 19 of the Merchant Marine Act, 1920, as amended (46 U. S. C. 876); section 204 of the Merchant Marine Act, 1936, as amended (46 U. S. C. 1114); the Administrative Procedure Act (5 U. S. C. 1001 et seq.); and the Board's rules of practice and procedure (46 CFR Part 201): *It is ordered:*

1. That the Board, on its own motion, enter upon a proceeding of inquiry and investigation,

(a) To reconsider the extent to which common carriers by water in the outbound trades in the foreign commerce of the United States, and common carriers by water in all domestic off-shore trades of the United States, may, by agreement, understanding, or otherwise in concert, prohibit payment of brokerage or other fees to ocean freight forwarders and/or freight brokers, or may otherwise control or limit the payment of such fees,

(b) To determine the extent to which the Board may control or limit the payment of brokerage or other fees to ocean freight forwarders and/or freight brokers, and practices connected with such payments, by individual common carriers by water engaged in the outbound trades in the foreign commerce of the United States and common carriers by water in all domestic off-shore trades of the United States,

(c) That this investigation be conducted with a view toward the issuance of rules and regulations which may be required in the public interest, and/or the taking of such other action in the premises as may be warranted;

2. That the following persons be, and they are hereby, made respondents to the proceeding:

(a) All common carriers by water in the outbound trades in the foreign commerce of the United States,

(b) All common carriers by water in all domestic off-shore trades of the United States, and

(c) All conferences or other associations of common carriers covered by items (a) and (b) hereof;

3. That this proceeding be assigned for hearing at a time and place to be hereafter designated;

4. That this order be published in the FEDERAL REGISTER.

Pursuant to the above order, notice is hereby given that a public hearing in this proceeding will be held before an Examiner of the Board's Hearing Examiners' Office at a date and place to be determined and announced by the Chief Examiner. The hearing will be conducted in accordance with the Board's rules of practice and procedure, and a recommended decision will be issued by the Examiner.

All persons (other than respondents in this proceeding) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Board on or before February 14, 1953, and should file petitions for leave to intervene in accordance with Rule 5 (n) of said rules.

Dated: January 10, 1958.

By order of the Federal Maritime Board.

GEO. A. VIEHMANN,
Assistant Secretary.

[F. R. Doc. 58-326; Filed, Jan. 14, 1958; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Document 170]

ARIZONA

REVOCATION OF ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

JANUARY 7, 1958.

Effective January 7, 1958, Federal Register Document 57-6852, appearing on pages 6721 and 6722 of the issue of August 21, 1957, designated as Arizona Document No. 157 dated August 13, 1957, "Order Providing for Opening of Public Lands" is hereby revoked in its entirety.

E. I. ROWLAND,
State Supervisor.

[F. R. Doc. 58-298; Filed, Jan. 14, 1958; 8:45 a. m.]

[Document 171]

ARIZONA

ORDER PROVIDING FOR THE OPENING OF PUBLIC LANDS

JANUARY 7, 1958.

In an exchange of lands made under the provisions of section 8 of the act of June 28, 1934 (48 Stat. 1269); as amended June 26, 1936 (49 Stat. 1976; 43 U. S. C. 315g), the following described lands have been reconveyed to the United States:

GILA AND SALT RIVER MERIDIAN

T. 1 S., R. 9 W.,
Sec. 2: Lots 1 and 2.

The area described totals 83.54 acres of public lands.

The lands are located in the Harquahala Valley approximately 35 miles northwest of Buckeye, Arizona, and 25 miles southeast of Salome, Arizona. Soils are sandy loam interspersed with fine gravel. Vegetation is of the southern desert shrub type. The lands are suitable for grazing of livestock and are considered as potentially agricultural in character.

No application for these lands will be allowed under the homestead, desert land, small tract, or any other nonmineral public land law, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

Subject to any valid existing rights and the requirements of applicable laws, the lands described herein are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this Order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims, subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the application and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II and, or, the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279 through 284, as amended) presented prior to 10:00 a.m., on February 12, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m. on May 14, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws other than those coming under paragraphs (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a. m. on May 14, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands will be opened to location under the United States mining laws, beginning 10:00 a. m., on February 12, 1958.

Persons claiming veteran's preference rights under paragraph a (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, P. O. Box 148, Phoenix, Arizona.

E. I. ROWLAND,
State Supervisor.

[F. R. Doc. 58-299; Filed, Jan. 14, 1958; 8:45 a. m.]

National Park Service

[Everglades National Park Order 1]

ADMINISTRATIVE OFFICER

DELEGATION OF AUTHORITY TO EXECUTE AND APPROVE CERTAIN CONTRACTS

DECEMBER 6, 1957.

The Administrative Officer may execute and approve contracts not in excess of $50,000 for construction, supplies, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriations. This authority may be exercised in behalf of any coordinated area.

(National Park Service Order No. 14 (19 F. R. 8824); 39 Stat. 535; 16 U. S. C., 1952 ed, sec. 2.) Region One Order No. 3 of August 28, 1957)

DANIEL B. BEARD,
Superintendent,
Everglades National Park.

[F. R. Doc. 58-300; Filed, Jan. 14, 1958; [8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8711]

TACA INTERNATIONAL AIRLINES, S. A.

NOTICE OF POSTPONEMENT OF HEARING

In the matter of the application of TACA International Airlines, S. A. for renewal of its foreign air carrier permit.

Notice is hereby given that the hearing in the above-entitled proceeding heretofore assigned to be held on January 21, 1958, at 10:00 a. m. in Room 5859, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., is hereby reassigned to be held on February 4, 1958, at 10:00 a. m. in Room 5132 of the Commerce Building before Examiner Ferdinand D. Moran.

Dated at Washington, D. C., January 10, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-321; Filed, Jan. 14, 1958; 8:49 a. m.]

[Docket No. 8761]

NATIONAL AIRLINES, INC.; ENFORCEMENT PROCEEDING

NOTICE OF REASSIGNMENT OF HEARING

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that a hearing in the above-entitled matter, now assigned for January 16, 1958, is reassigned to be held on February 11, 1958, at 10:00 a. m., e. s. t., in Room 1510, Temporary Building No. 4, 17th Street and Constitution Avenue NW., Washington, D. C., before Examiner William J. Madden.

Dated at Washington, D. C., January 9, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-324; Filed, Jan. 14, 1958; 8:50 a. m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 1 (Revision 4), Amdt. 1]

DEPUTY ADMINISTRATOR FOR ADMINISTRATION

DELEGATION OF AUTHORITY RELATING TO ADMINISTRATION

Delegation of Authority No. 1 (Revision 4, 22 F. R. 6540), dated August 5, 1957, is hereby amended by adding the following new subsection:

I. B. 18. To authorize expenditures for registration fees not in excess of $25.00 for each registration.

Dated: December 31, 1957.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 58-317; Filed, Jan. 14, 1958; 8:49 a. m.]

[Delegation of Authority No. 4 (Revision 3), Amdt. 2]

CONTROLLER

DELEGATION RELATING TO ADMINISTRATION

Delegation of Authority No. 4 (Revision 3), as amended (21 F. R. 8223, 22 F. R. 6604), is hereby amended by:

1. Adding the following new sub-section:

I. B. 10. To authorize expenditures for registration fees not in excess of $25.00 for each registration.

2. Deleting section II in its entirety and substituting the following in lieu thereof:

II. The specific authorities delegated in I. B. 1, I. B. 5 (b) and (c), I. B. 6, I. B. 8 and I. B. 10 may not be redelegated.

Dated: January 1, 1958.

ROBERT H. MONTGOMERY,
Deputy Administrator for Administration.

[F. R. Doc. 58-318; Filed, Jan. 14, 1957; 8:49 a. m.]

[Delegation of Authority 10 (Revision 2), Amdt. 1]

DEPUTY ADMINISTRATOR FOR FINANCIAL ASSISTANCE

DELEGATION OF AUTHORITY RELATING TO FINANCIAL ASSISTANCE

Delegation of Authority No. 10 (Revision 2), (22 F. R. 9846), dated July 1, 1957, is hereby amended by adding the following new section:

I. B. 10. To authorize expenditures for registration fees not in excess of $25.00 for each registration.

Dated: December 31, 1957.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 58-319; Filed Jan. 14, 1958; 8:49 a. m.]

[Delegation of Authority 10-1 (Revision 1), Amdt. 1]

DIRECTOR, OFFICE OF FINANCIAL ASSISTANCE

DELEGATION OF AUTHORITY RELATING TO FINANCIAL ASSISTANCE

Delegation of Authority No. 10-1 (Revision 1), (22 F. R. 9847), dated August 15, 1947, is hereby amended by:

1. Adding the following new sub-section:

I. B. 9. To authorize expenditures for registration fees not in excess of $25.00 for each registration.

2. Deleting section II in its entirety and substituting the following in lieu thereof:

II. The specific authorities delegated in I. B. 7, I. B. 8 (b) and (c), and I. B. 9 may not be redelegated.

Dated: January 1, 1958.

ALBERT C. KELLY,
Deputy Administrator for Financial Assistance.

[F. R. Doc. 58-320; Filed, Jan. 14, 1958; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3654]

WHEELING ELECTRIC CO. AND AMERICAN GAS AND ELECTRIC CO.

NOTICE OF FILING OF DECLARATION REGARDING ISSUANCE AND SALE OF SHORT-TERM NOTES TO BANKS AND CAPITAL CONTRIBUTION BY PARENT SUBSIDIARY

JANUARY 8, 1958.

Notice is hereby given that American Gas and Electric Company ("American Gas"), a registered holding company, and its public-utility subsidiary, Wheeling Electric Company ("Wheeling"), have filed with this Commission a joint declaration and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("act") and have designated sections 7 and 12 of the act and Rule U-45 thereunder as applicable to the proposed transactions.

All interested persons are referred to the joint application, as amended, on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Wheeling has established a line of credit in the aggregate amount of $3,000,000 with the five banking institutions named below under which it has borrowed this amount. It now proposes to increase this line of credit by $1,250,000. Prior to December 31, 1958, Wheeling will reborrow the $3,000,000 and borrow the additional $1,250,000; not more than $4,250,000 of such bank debt to be outstanding at any one time. The names of the lending banks and the amounts to be loaned are as follows:

Mellon National Bank & Trust Company, Pittsburgh, Pa	$1,950,000
First National City Bank of New York, New York, N. Y	575,000
Manufacturers Trust Company, New York, N. Y	575,000
Guaranty Trust Company of New York, New York, N. Y	575,000
Bankers Trust Company, New York, N. Y	575,000
Total	$4,250,000

American Gas proposes, from time to time prior to December 31, 1958, to make cash capital contributions to Wheeling in the aggregate amount of $750,000.

The proposed renewals or additional borrowings by Wheeling are to be evidenced by notes maturing not more than 270 days after the renewal or borrowing date and the notes are to bear interest at the current prime rate effective on the date of the borrowing. Said prime rate is presently 4½ percent per annum. The notes are to be prepayable in whole or in part without premium and it is contemplated that all such bank loans will be renewed until 1960 at which time it is intended to refinance such notes with long-term financing. Such authorization as may be necessary to extend the notes beyond December 31, 1958, will be made the subject of subsequent filings by Wheeling.

The proceeds from the proposed borrowings and the cash capital contributions will be used to pay, in part, the costs of Wheeling's 1958 construction program, estimated at approximately $2,600,000.

No fees, commissions or expenses are to be paid by Wheeling, except for legal services the fee for which is estimated not to exceed $100. Routine services will be performed by American Gas and Electric Service Corporation, the system's mutual service company, the cost of which services is estimated to be not in excess of $500.

No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed borrowings. The Public Service Commission of West Virginia has consented for Wheeling to receive the proposed capital contributions.

Notice is further given that any interested person may, not later than January 22, 1958, at 5:30 p. m., request the Commission in writing that a hearing be held on this matter, stating the nature of his interest, the reason for such request, and

the issues of fact or law raised by the joint declaration, as amended, which he proposes to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the joint declaration, as amended, or as it may be further amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100 or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 58-301; Filed, Jan. 14, 1958; 8:46 a. m.]

[File No. 1-2115]

BELLANCA CORP.

ORDER SUMMARILY SUSPENDING TRADING

JANUARY 9, 1958.

In the matter of trading on the American Stock Exchange in the $1.00 par value Capital Stock of Bellanca Corporation; File No. 1-2115.

I. The $1.00 par value Capital Stock of Bellanca Corporation is listed and registered on the American Stock Exchange, a national securities exchange; and

II. The Commission on April 24, 1957, issued its order and notice of hearing under section 19 (a) (2) of the Securities Exchange Act of 1934 (hereinafter called "the act") to determine at a hearing beginning July 10, 1957, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the capital stock of Bellanca Corporation (hereinafter called "registrant") on the American Stock Exchange for failure to comply with section 13 of the Act and the rules and regulations adopted thereunder, and for failure to comply with the disclosure requirements of Regulations X-14 adopted pursuant to section 14 (a) of the act.

On December 30, 1957 the Commission issued its order summarily suspending trading of said securities on the exchange pursuant to section 19 (a) (4) of the act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days ending January 9, 1958.

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the American Stock Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion that such suspension is necessary in order to prevent fraudulent, deceptive, or manipulative acts or practices, with the result that it will be unlawful under section 15 (c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule X-15C2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, such security otherwise than on a national securities exchange,

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, that trading in said securities on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive, or manipulative acts or practices for a period of ten (10) days, January 10 to 19, 1958, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 58-302; Filed, Jan. 14, 1958; 8:46 a. m.]

TARIFF COMMISSION

STAINLESS-STEEL TABLE FLATWARE

"ESCAPE CLAUSE" REPORT

JANUARY 10, 1958.

The Tariff Commission today submitted a report to the President in connection with "escape clause" investigation No. 61 under section 7 of the Trade Agreements Extension Act of 1951, as amended, with respect to table knives, forks, and spoons wholly of metal and in chief value of stainless steel, dutiable under paragraph 339 or 355 of the Tariff Act of 1930. Such knives and forks were originally dutiable under the Tariff Act of 1930 at either 2 cents each and 45 percent ad valorem or 8 cents each and 45 percent ad valorem, depending upon whether the length exclusive of handle was less than 4 inches, or was 4 inches or over; the spoons were dutiable at 40 percent ad valorem irrespective of length. This stainless-steel table flatware is currently dutiable at reduced rates as the result of concessions granted in the General Agreement on Tariffs and Trade.

The Commission unanimously found that the above-described stainless-steel table flatware is being imported into the United States in such increased quantities, both actual and relative, as to cause serious injury to the domestic industry producing like products. The six members of the Commission divided three to three on the remedy that is necessary. Commissioners Brossard, Schreiber, and Sutton recommend the withdrawal of the concessions granted in the General Agreement on Tariffs and Trade on the above-described stainless-steel table flatware valued under $3.00 per dozen pieces. Commissioners Talbot, Jones, and Dowling recommend the withdrawal of the concessions on such stainless-steel table flatware regardless of value. If the concessions were withdrawn, the rates originally provided in the Tariff Act of 1930 would again become the effective rates.

Copies of the Commission's report are available upon request as long as the limited supply lasts. Address requests to the United States Tariff Commission, Eighth and E Streets NW., Washington 25, D. C.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 58-305; Filed, Jan. 14, 1958; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[Notice 199]

MOTOR CARRIER APPLICATIONS

JANUARY 10, 1958.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.241).

All hearings will be called at 9:30 o'clock a.m., United States Standard Time, unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 263 (Sub No. 93), filed December 13, 1957, GARRETT FREIGHTLINES, INC., 2055 Pole Line Road, P. O. Box 349, Pocatello, Idaho. Applicant's attorney: Maurice H. Greene, 300 North Sixth Street, P. O. Box 1554, Boise, Idaho. For authority to operate as a *common carrier,* transporting: *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Little Mountain, Utah, Production Testing Facility of the Marquardt Aircraft Company plant near Ogden, Utah, as an off-route point in connection with applicant's authorized regular route operations between Ogden, Utah, and Tremonton, Utah, over U. S. Highway 91. Applicant is authorized to conduct operations in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

HEARING: February 28, 1958, at the Utah Public Service Commission, Salt Lake City, Utah, before Joint Board No. 207, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 11620 (Sub No. 22), filed December 2, 1957, GEORGE BUSSE, doing business as THE ARROW TRANSFER COMPANY, 339 East Main Street, Danville, Ky. Applicant's attorney: John P. McMahon, 44 East Broad Street, Columbus 15, Ohio. For authority to operate as a *contract carrier,* over irregular routes, transporting: *Powdered milk,* from Stanford, Ky., to Cincinnati, Ohio, and points in Tennessee, North Carolina, South Carolina, Georgia, and Florida; and *damaged, defective, rejected or returned shipments* of powdered milk, from points in Tennessee, North Carolina, South Carolina, Geor-

gia, Florida, and Cincinnati, Ohio, to Stanford, Ky. Applicant is authorized to conduct operations in Ohio, Kentucky, North and South Carolina, Georgia, Tennessee, Florida, New York, N. Y., Newark, N. J., Philadelphia and Manatwany, Pa., Alabama, Delaware, Indiana, Maryland, Virginia, and West Virginia.

NOTE: Applicant states that it seeks authority for this exempt commodity so that it may be transported in mixed shipments with other non-exempt commodities now being transported for the same shipper from Stanford, Ky., to Cincinnati, Ohio, and points in Tennessee, North Carolina, South Carolina, Georgia, and Florida.

HEARING: February 20, 1958, at the New Post Office Building, Columbus, Ohio, before Examiner Isadore Freidson.

No. MC 11620 (Sub No. 23), filed December 2, 1957, GEORGE BUSSE, doing business as THE ARROW TRANSFER COMPANY, 339 East Main Street, Danville, Ky. Applicant's attorney: John P. McMahon, 44 East Broad Street, Columbus 15, Ohio. For authority to operate as a *contract carrier,* over irregular routes transporting: *Oleomargarine,* from Cincinnati, Ohio, to points in Kentucky, and *damaged, defective, rejected or returned shipments* of oleomargarine, on return. Applicant is authorized to conduct operations in Ohio, Kentucky, North and South Carolina, Georgia, Tennessee, Florida, Alabama, Delaware, Indiana, Maryland, Virginia, West Virginia, New York, N. Y., Newark, N. J., and Philadelphia and Manatawny, Pa.

HEARING: February 18, 1958, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 37, or, if the Joint Board waives its right to participate, before Examiner Isadore Freidson.

No. MC 28439 (Sub No. 83), filed December 30, 1957, DAILY MOTOR EXPRESS, INC., Pitt and Penn Streets, Carlisle, Pa. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street, N.W., Washington 4, D. C. For authority to operate as a *common carrier,* over irregular routes, transporting *Tractors, attachments, earth moving, material handling and construction equipment* and *parts thereof,* when moving in connection therewith, between Batavia, N. Y., and all points in the United States and the Territory of Alaska; and *materials, supplies and parts* used in the manufacture of these articles, from points in the United States and the Territory of Alaska to Batavia, N. Y. Applicant is authorized to transport similar commodities throughout the United States.

HEARING: February 20, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Herbert L. Hanback.

No. MC 37379 (Sub No. 14), (Correction) filed December 9, 1957, published in the December 24, 1957 issue on Page 10507, BINGHAMTON WAREHOUSE & TERMINAL, INC., P. O. Box 127, Ninth and Market Streets, Lemoyne, Pa. Applicant's attorney: Martin Werner, 295 Madison Avenue, New York 17, N. Y. For authority to operate as a *common carrier,* transporting: *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment serving the site of the International Business Machines Corporation distribution center located in Hampden Township, Cumberland County, Pa., approximately 4.4 miles west of the Borough of Camp Hill on Pennsylvania Highway 641, as an off-route point in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Maryland, New York, Pennsylvania, Virginia, and the District of Columbia.

HEARING: Remains as assigned February 6, 1958, at 346 Broadway, New York, N. Y., before Examiner Donald R. Sutherland.

No. MC 41635 (Sub No. 33), (Correction) published issue December 11, 1957, at page 9903, DEALERS TRANSPORT COMPANY, a Corporation, 1368 Riverside Boulevard, Memphis, Tenn. Applicant's attorney: Charles H. Hudson, Jr., 407 Broadway National Bank Building, Nashville, Tenn. Designation of Walter N. Bieneman in previous publication as applicant's attorney was in error.

No. MC 52709 (Sub No. 79), filed December 13, 1957, RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver, Colo. Applicant's attorney: Maurice H. Greene, 300 North Sixth Street, P. O. Box 1554, Boise, Idaho. For authority to operate as a *common carrier,* transporting: *General commodities,* except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Little Mountain, Utah, Production Testing Facility of the Marquardt Aircraft Company plant near Ogden, Utah, as an off-route point in connection with applicant's authorized regular route operations between Ogden, Utah, and Salt Lake City, Utah, over U. S. Highway 91. Applicant is authorized to conduct operations in California, Colorado, Illinois, Iowa, Missouri, Nebraska, Nevada, Utah, and Wyoming.

HEARING: February 28, 1958, at the Utah Public Service Commission, Salt Lake City, Utah, before Joint Board No. 207, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 52869 (Sub No. 51), (Republication) filed September 23, 1957, published in October 30, 1957, issue on Page 8750, NOTHERN TANK LINE, a Corporation, 8 South Seventh Street, Miles City, Mont. This is a second notice of an application which as originally published incorrectly indicated applicant had requested *contract carrier* authority. The application as filed requested *common carrier* authority. At a hearing held on December 19, 1957, before Examiner John P. McCarthy applicant was allowed to amend the application to correct the error so as to indicate that the authority sought by applicant is that of a common carrier. The application was further amended to reduce the scope of the origin territory originally set forth as from points in Yellowstone County, Mont., to points in South Dakota, so as to read from Laurel, Mont., and the site of the Farmers Union Central Exchange Refinery at or near Laurel, to points in South Dakota. Evidence was received in support of the application as amended. The examiner's report and recommended order will not be served until a lapse of 30 days after this republication within which time any person who may have been prejudiced by the allowance of the amendment may file an appropriate petition for a further hearing. If any such petition is received applicant may reply thereto within 50 days from the date of this republication and further proceedings on the application will be deferred until the petition has been acted upon.

No. MC 55236 (Sub No. 34), filed December 16, 1957, OLSON TRANSPORTATION COMPANY, P. O. Box 1187, Green Bay, Wis. Applicant's attorney: Claude J. Jasper, One West Main Street, Madison 3, Wis. For authority to operate as a *common carrier,* over irregular routes, transporting: *Liquid products* (except milk), in bulk, in tank vehicles, from points in Illinois and that portion of Indiana which is included in the Chicago, Ill., Commercial Zone, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Minnesota, Ohio, and Wisconsin. Applicant is authorized to conduct regular route operations in Illinois, Indiana and Wisconsin, and irregular route operations in Illinois, Indiana, and Michigan.

HEARING: March 5, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Isadore Freidson.

No. MC 61788 (Sub No. 16), filed December 18, 1957, GEORGIA-FLORIDA-ALABAMA TRANSPORTATION COMPANY, INC., 2004 North Appletree Street, Dothan, Ala. Applicant's attorney: Maurice F. Bishop, 325 Frank Nelson Building, Birmingham, Ala. For authority to operate as a *common carrier,* transporting: *General commodities,* except those of unusual value, and except Class A and B explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M. C. C. 467, commodities in bulk, and those requiring special equipment, serving Eglin Air Force Base and Fort Walton, Fla., and Fort Walton Beach, Fla., as off-route points in connection with applicant's authorized regular route operations (1) between Atlanta, Ga., and Malone, Fla.; and (2) between Dothan, Ala., and Pensacola, Fla. Also, over irregular routes between Bay Minette, Ala., on the one hand, and, on the other, Fort Walton, Fla., Fort Walton Beach, Fla., and Eglin Air Force Base, Fla. Applicant is authorized to transport the commodities specified in Alabama, Florida, Georgia, and Mississippi.

HEARING: February 24, 1958, at the Florida Railroad Commission, Tallahassee, Fla., before Joint Board No. 98, or, if the Joint Board waives its right to participate, before Examiner Robert A. Joyner.

No. MC 103051 (Sub No. 40), filed December 23, 1957, WALKER HAULING CO., INC., 624 Penn Avenue NE., Atlanta 8, Ga. Applicant's attorney: R. J. Reynolds, Jr., 1403 Citizens and Southern National Bank Building, Atlanta 3, Ga.

For authority to operate as a *common carrier,* over irregular routes, transporting: *Ammonium sulphide,* in bulk, in tank vehicles, from Cartersville, Ga., to Enka, N. C. Applicant is authorized to transport liquid commodities in bulk, other than ammonium sulphide, in Alabama, Florida, Georgia, South Carolina and Tennessee.

HEARING: February 19, 1958, at 680 West Peachtree Street NW., Atlanta, Ga., before Joint Board No. 130, or, if the Joint Board waives its right to participate, before Examiner Robert A. Joyner.

No. MC 103378 (Sub No. 96), filed December 4, 1957, PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. For authority to operate as a *common carrier,* over irregular routes, transporting: *Crude tall oil,* in bulk, in tank vehicles, from points in Wayne County, Ga., to points in Hillsborough and Polk Counties, Fla. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.

HEARING: February 26, 1958, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Robert A. Joyner.

No. MC 103378 (Sub No. 99), filed December 19, 1957, PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville 2, Fla. For authority to operate as a *common carrier,* over irregular routes, transporting: *Lubricating oil,* in bulk, in tank vehicles, from Savannah, Ga., to St. Marks, Fla. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.

NOTE: Duplication with present authority to be eliminated.

HEARING: February 26, 1958, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Robert A. Joyner.

No. MC 107515 (Sub No. 266), filed December 19, 1957, REFRIGERATED TRANSPORT, CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Allan Watkins, 214–216 Grant Building, Atlanta 3, Ga. For authority to operate as a *common carrier,* over irregular routes, transporting: *Dairy products,* as defined by the Commission in Appendix 1 B, Ex Parte No. MC–45, 61 M. C. C. 209, from Okolona and Macon, Miss., and Franklin, McKenzie, Murfreesboro, Nashville, and Tullahoma, Tenn., to New Orleans, La. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

HEARING: February 19, 1958, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Robert A. Joyner.

No. MC 108461 (Sub. No. 64), filed December 13, 1957, WHITFIELD TRANSPORTATION, INC., 240 West Amador, Las Cruces, N. Mex. Applicant's attorney: Maurice H. Greene, 300 North Sixth Street, P. O. Box 1554, Boise, Idaho. For authority to operate as a *common carrier,* transporting: *General commodities,* except livestock, commodities of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Little Mountain, Utah, Production Testing Facility at the Marquardt Aircraft Company plant near Ogden, Utah, as an off-route point in connection with applicant's authorized regular route operations between Ogden and Salt Lake City, Utah, and Albuquerque, N. Mex. Applicant is authorized to conduct operations in Arizona, California, Colorado, New Mexico, Texas, and Utah. RESTRICTION: Service authorized above is restricted against transportation between points in Utah and subject to the further restriction that shipments moving to or from points on the route granted herein north of but not including Salt Lake City, Utah, be restricted to traffic moving on Government Bills of Lading.

HEARING: February 28, 1958, at the Utah Public Service Commission, Salt Lake City, Utah, before Joint Board No. 207, or, if the Joint Board waives its right to participate, before Examiner Allan F. Borroughs.

No. MC 109385 (Sub No. 17), filed December 5, 1957, SUBLER TRANSFER, INC., East Main Street, Versailles, Ohio. Applicant's attorney: Taylor C. Burneson, 3510 LeVeque-Lincoln Tower, Columbus 15, Ohio. For authority to operate as a *common or contract carrier,* over irregular routes, transporting: *Eggs* and *egg products,* including egg whites, egg yolks, mixtures of egg whites and egg yolks and egg whites and egg yolks or mixtures thereof blended with seasonings, flavorings or preservatives, and *commodities used in the processing or marketing of eggs and egg products,* including sugar, salt, syrup, spices, and like commodities which are blended with egg yolks, egg whites or mixtures thereof, *and including such commodities* as cartons, boxes, containers, materials, supplies, machinery and equipment used in the processing of eggs and egg products and in the packaging, transportation or sale thereof, between Zanesville, Ohio, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Applicant is authorized to transport similar commodities in Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia.

NOTE: Applicant states no duplication of existing authority in No. MC 109385 (Sub No. 15) is sought.

HEARING: February 19, 1958, at the New Post Office Building, Columbus, Ohio, before Examiner Isadore Freidson.

No. MC 109385 (Sub No. 19), filed December 17, 1957, SUBLER TRANSFER, INC., East Main Street, Versailles, Ohio. Applicant's attorney: Taylor C. Burneson, 3510 Leveque-Lincoln Tower, Columbus 15, Ohio. For authority to operate as a *common or contract carrier,* over irregular routes, transporting: *Frozen foods,* in refrigerated equipment, between points in Ohio, Indiana, Michigan, Illinois, and Wisconsin, on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia. Applicant holds contract carrier authority in Permits No. MC 109385 and Sub Numbers thereunder, and is authorized to transport similar commodities in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: February 24, 1958, at the New Post Office Building, Columbus, Ohio, before Examiner Isadore Freidson.

No. MC 111450 (Sub No. 8), filed December 5, 1957, GRANT TRUCKING, INC., Oak Hill, Ohio. For authority to operate as a *common carrier,* over irregular routes, transporting: *Ferro alloys* and *pig iron,* from Jackson, Ohio to points in Michigan, Pennsylvania, West Virginia, Indiana, and Kentucky, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return. Applicant is authorized to transport Ferro Alloys and Pig iron, in bulk, in dump trucks, from Jackson, Ohio, to points in Indiana, Michigan, Kentucky, Pennsylvania, and West Virginia, and other commodities in Alabama, Connecticut, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: February 20, 1958, at the New Post Office Building, Columbus, Ohio, before Examiner Isadore Freidson.

No. MC 115080 (Sub No. 2), filed December 6, 1957, WILLIAM PERKINS, doing business as MOBILE HOMES SERVICE COMPANY, 203 19th Street SW., Birmingham 8, Ala. For authority to operate as a *common carrier,* over irregular routes, transporting: (1) *Mobile home trailers,* in truckaway service, in secondary movements, from points in Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michi-

gan, Mississippi, Missouri, New Jersey, New York, North Carolina, Oklahoma, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, points in that portion of Minnesota bounded by a line beginning at Moorhead, Minn., and extending along U. S. Highway 10 to Motley, Minn., thence along U. S. Highway 210 to and including Duluth, Minn., thence along the Minnesota-Wisconsin State line to the Minnesota-Iowa State line, thence along the Minnesota-Iowa State line to the Minnesota-South Dakota State line, thence along the Minnesota-South Dakota and Minnesota-North Dakota State lines to the point of beginning, including points on the portions of the highways specified, and points in New Mexico on and east of U. S. Highway 85 to all points in Alabama; and (2) *mobile home trailers*, in truckaway service, in initial movements, from points in Arkansas, Georgia, Indiana, Michigan, Mississippi, Oklahoma, and Texas, to all points in Alabama. Applicant is authorized to transport the commodities specified above in all of the above-named states.

HEARING: February 14, 1958, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Robert A. Joyner.

No. MC 116514 (Sub No. 2), filed November 14, 1957, EDWARDS TRUCKING, INC., Main Street, Hemingway, S. C. Applicant's attorney: Jerome P. Askins, Jr., Hemingway, S. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Tobacco curers*, from Farmville, N. C., to Hemingway, S. C.; and *tobacco harvesters and curers*, from Hemingway, S. C.; to Madison, Live Oak and Lake City, Fla.; and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return. The authority sought at Hemingway, S. C., involves transportation to and from the site of the warehouse of Brown Brothers Supply Company.

HEARING: February 28, 1958, at the U. S. Court Rooms, Charleston, S. C., before Examiner Robert A. Joyner.

No. MC 117051, filed November 21, 1957, JOHN P. STORER, doing business as JOHN P. STORER TRUCKING, Box 142, Highland, Ohio. For authority to operate as a *common carrier*, over irregular routes, transporting: *Coal*, from points in Boyd County, Ky., to Highland, Ohio.

HEARING: February 18, 1958, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 37, or, if the Joint Board waives its right to participate, before Examiner Isadore Freidson.

No. MC 117053, filed November 22, 1957, BRANTLEY O'QUINN, doing business as O'QUINN TRAILER SALES, 4020 Norwich Street, Brunswick, Ga. For authority to operate as a *common carrier*, over irregular routes, transporting: *Tow house trailers*, (mobile homes) between points in Georgia, Florida, Alabama, South Carolina, and Tennessee.

HEARING: February 21, 1958, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Robert A. Joyner.

No. MC 117067 (Correction), SIDNEY GILBERT, CHARLES PELLICANE AND JOHN LeBARBERA, doing business as INTER-METRO TRUCKING CO., Jersey City, N. J., filed December 2, 1957, published on Page 10248 issue of December 19, 1957. The territory sought to be served in route (2) of the application as published reads from Paramus, N. J., to points in Orange, Rockland, Westchester, Nassau, and Suffolk Counties, N. J., and Philadelphia, Pa. The destination counties to be served are located in New York.

No. MC 117076, filed December 5, 1957, ORVILLE J. GRIESER AND HERBERT C. GRIESER, doing business as GRIESER TRUCKING CO., Archbold, Ohio. Applicant's attorney: Herbert Baker, 50 West 50th Street, Columbus 15, Ohio. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Furniture* (Church, household and other), from Archbold, Ohio to points in those portions of North Dakota, South Dakota, Wyoming, Colorado, and New Mexico, on and east of U. S. Highway 85, and points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities, and *damaged, rejected or used furniture* (Church, household, or other), on return.

HEARING: February 21, 1958, at the New Post Office Building, Columbus, Ohio, before Examiner Isadore Freidson.

MOTOR CARRIERS OF PASSENGERS

No. MC 3397 (Sub No. 1), filed December 20, 1957, DEERFLEET LINES, INC., Sheraton Plaza, Boston, Mass. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW, Washington 4, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers*, in special operations, restricted to the transportation of passengers who at the time are traveling from the designated origin points to the designated destination points and return for the purpose of participating in games commonly referred to as beano and bingo games, between points in Massachusetts on and east of Massachusetts Highway 12, on the one hand, and, on the other, points in New Hampshire and Rhode Island. Applicant is authorized to conduct regular route operations of passengers and their baggage and express in the same vehicle with passengers in Massachusetts and Rhode Island.

HEARING: February 4, 1958, at the New Post Office and Court House Building, Boston, Mass., before Joint Board No. 190.

APPLICATION FOR BROKERAGE LICENSE

No. MC 12672, filed December 5, 1957, BIXLER TOURS, INC., Walefield Road, Hiram, Ohio. For a license (BMC 5) authorizing operations as a *broker* at Hiram, Ohio, in arranging for transportation by motor vehicle, in interstate or foreign commerce of *passengers and their baggage*, in round trip special all-expense sightseeing and pleasure tours, beginning and ending at points in Ohio and extending to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Minnesota, Maine, Massachusetts, Maryland, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE: Applicant has recently incorporated and states this application has been filed for the purpose of change in name and to add the additional state of Minnesota to presently authorized operations in No. MC 12480. If and when the authority applied for herein is granted, the operations authorized in No. MC 12480 should be canceled.

HEARING: February 21, 1958, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 117, or, if the Joint Board waives its right to participate, before Examiner Isadore Freidson.

PETITIONS

No. MC 8958 *Petition for Interpretation and Declaratory Order*, YOUNGSTOWN CARTAGE CO., 416 Covington Street, Youngstown, Ohio. Applicant's attorney: John P. McMahon, (same address as applicant). Petitioner holds Certificate No. MC 8958, wherein it is authorized, in part, to transport: *Household goods, contractors' equipment, machinery*, and *iron and steel articles* of the kind used in construction and manufacture, over irregular routes, between points in Ohio, on and east of U. S. Highway 21, and on and north of U. S. Highway 36 and 22; between the above-specified Ohio points, on the one hand, and, on the other, points in Ohio, Pennsylvania, West Virginia, New York, New Jersey, and that part of Michigan, on and south of Michigan Highway 21, and on the east of U. S. Highway 27. Petitioner requests that the matter be assigned for oral hearing, the authority interpreted, and an order be entered declaring that it may properly transport carburetors, spark coils, distributors, generators, electric switches and parts, pumps, spark plugs, electric motors, and powdered iron, within the territorial scope of the authority herein specified.

PETITIONS TO REDEFINE COMMERCIAL ZONE LIMITS

The following petitions relative to the limits of the zone adjacent to and commercially a part of a municipality within the meaning of section 203 (b) (8) of the Interstate Commerce Act has been received and will be processed in the manner hereinafter indicated.

In Ex Parte No. MC-7, Washington, D. C., Commercial Zone, a petition dated November 13, 1957, has been filed by the Economic and Industrial Development Committee of Fairfax County, and one dated December 20, 1957, by the Rockville Chamber of Commerce, Inc., and

the Mayor and Council of Rockville, in support thereof, seeking redefinition of the limits of the commercial zone of Washington, D. C., in a manner to expand said zone.

Executive Director of the Economic and Industrial Development Committee of Fairfax County: William B. Wrench, 6434 Brandon Avenue, Springfield, Va. Attorney for the Rockville Chamber of Commerce, Inc., et al.: David L. Cahoon, 120 South Washington Street, Rockville, Md.

The limits of the commercial zone of *Washington, D. C.* are now determined specifically in Ex Parte No. MC-7, *Washington, D. C., Commercial Zone,* 54 M. C. C. 797, 798 (Prior reports: 3 M. C. C. 243, 48 M. C. C. 460) (49 CFR 170.4).

Petitioners seek enlargement of the above-described zone limits particularly in the Rockville, Md., and Fairfax County, Va. areas.

No oral hearing is contemplated with respect to the petition, but an informal investigation with respect to redefinition of the zone limits as requested, and in other respects, will be conducted. Subsequent to such investigation the Commission will either (1) enter an order denying the petitions or, (2) if any change is considered, a Notice of Proposed Rule Making will be published. Persons supporting or opposed to any change in the present zone limits, who desire to participate in future proceedings on this petition or be notified of any action taken thereon, should notify the Commission and petitioners or their counsel, if represented, of their desire on or before 30 days from the date of publication.

Applications in Which Handling Without Oral Hearing Is Requested

Motor carriers of property

No. MC 35536 (Sub No. 50), filed December 30, 1957, SCOTT BROS., INCORPORATED, 1000 South Broad Street, Philadelphia 46, Pa. Applicant's attorney: Robert H. Griswold, Commerce Building, P. O. Box 432, Harrisburg, Pa. For authority to operate as a *common carrier,* over regular and alternate routes, transporting: *General commodities,* except Class A and B explosives, household goods as defined by the Commission and commodities in bulk, and *including commodities requiring special equipment,* (1) between Stockton, N. J., and Flemington, N. J., over County Highway 523, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (2) between Stockton, N. J., and Baptistown, N. J., over County Highway 519, serving no intermediate points and serving Baptistown for purpose of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular routes; (3) between junction of New Jersey Highways 18 and 79 south of Matawan, N. J., and Freehold, N. J., over New Jersey Highway 79 serving no intermediate points and serving said junction for purpose of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (4) between New Brunswick, N. J., and junction U. S. Highway 130 and unnumbered highway southeast of Dayton, N. J., over U. S. Highway 130, serving no intermediate points and serving said junction for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (5) between Yardville, N. J., and the junction of U. S. Highways 130 and 206 north of Bordentown, N. J., over U. S. Highway 130, serving no intermediate points and serving said junction for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (6) between junction U. S. Highway 206 and New Jersey Highway 68 and Browns Mills, N. J., from junction of U. S. Highway 206 and New Jersey Highway 68 over New Jersey Highway 68 to junction of unnumbered highway southwest of Wrightstown, N. J., thence over unnumbered highway to junction County Highway 545, thence over County Highway 545 to Browns Mills, and return over the same route, serving the intermediate point of Fort Dix, N. J., and serving said junction for purposes of joinder only; (7) between junction New Jersey Highway 68 and unnumbered highway southwest of Wrightstown, N. J., and Lewistown, N. J., over unnumbered highway, serving no intermediate points and serving said junction for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; (8) between junction U. S. Highway 130 and County Highway 543 southwest of Burlington, N. J., and junction U. S. Highway 130 and New Jersey Highway 73, over County Highway 543, serving no intermediate points and serving said junction for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations; and (9) between junction of unnumbered highway and U. S. Highway 206 east of Smithville, N. J., and the junction of U. S. Highway 206 and New Jersey Highway 70 south of Red Lion, N. J., over U. S. Highway 206, serving no intermediate points and serving said junction and the junction of New Jersey Highway 38 and U. S. Highway 206 for purposes of joinder only, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations. RESTRICTIONS: Applied-for authority to be limited to that which is auxiliary to or supplemental of rail service of The Pennsylvania Railroad Company, hereinafter called the railroad. Said applicant shall not serve any point not a station on the rail line of the Railroad. All contractural arrangements between applicant and the Railroad shall be reported to the Commission and shall be subject to revision if and as the Commission may find it to be necessary in order that such arrangements shall be fair and equitable to the parties. Such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict applicant's operations by motor vehicle to service which is auxiliary to or supplemental of rail service. Applicant is authorized to transport similar commodities in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia and the District of Columbia.

NOTE: Applicant has contract carrier authority in MC 52405 (Sub No. 1), and Subs 2 and 3. Section 210 (dual operations) may be involved.

No. MC 35628 (Sub No. 210), filed December 13, 1957, INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville S.W., Grand Rapids, Mich. Applicant's attorney: Leonard D. Verdier, Jr., Michigan Trust Building, Grand Rapids 2, Mich. For authority to operate as a *common carrier,* over a regular route, transporting: *General commodities,* except Class A and B explosives, dangerous inflammables, household goods as defined by the Commission, and commodities in bulk, between Frederick, Md., and Washington, D. C., over U. S. Highway 240, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations (1) between Wheeling, W. Va., and Baltimore, Md., and (2) between Washington, D. C., and New York, N. Y., serving no intermediate points, but serving Frederick, Md., for joinder purposes only. Applicant is authorized to conduct operations in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, Wisconsin, and the District of Columbia.

No. MC 69365 (Sub No. 4), filed December 16, 1957, CONTRACT CARRIER SERVICE, INC., P. O. Box 3083, Eugene, Oreg. Applicant's attorney: Earle V. White, 1401 Northwest 19th Avenue, Portland 9, Oreg. For authority to operate as a *contract carrier,* over irregular routes, transporting: *Laminated wood products* and *prefabricated wooden timbers and trusses,* including those which because of size or shape require the use of special equipment, from Longview, Wash., and Springfield, Oreg., to points in Washington, Oregon, Idaho, Utah, Nevada, California, New Mexico, Arizona, and Colorado.

No. MC 112843 (Sub No. 4), filed December 20, 1957, RALPH DUNN, Box 116, Moab, Utah. Applicant's attorney: Paul N. Cotro-Manes, 430 Judge Building, Salt Lake City 11, Utah. For authority to operate as a *common carrier,* over irregular routes, transporting: *Steel roof bolts, plates, washers, nuts, rails* and *grinding balls,* from Minnequa, Colo., to the sites of uranium and vanadium mines and mills located in Emery, Grand, Carbon, and San Juan Counties, Utah, except to points on U. S. Highways 50 and 160 and Utah Highway 47, but serving the Uranium Reduction Co. at Moab, Utah. Applicant is authorized to conduct operations in Colorado and Utah.

No. MC 114019 (Sub No. 14), filed December 16, 1957, THE EMERY TRANSPORTATION COMPANY, a corporation, 7000 Pulaski Road, Chicago 29, Ill. Ap-

plicant's attorney: Charles W. Singer, 1825 Jefferson Place NW., Washington 6, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Used pallets and skids*, (1) from points in Illinois, Iowa, Michigan, Missouri, Ohio, Wisconsin, New York, West Virginia, those in Kentucky on and north of U. S. Highway 60, and those in Pennsylvania on and west of a line beginning at the Pennsylvania-West Virginia State line (near Point Marion, Pa.), and extending along U. S. Highway 119 to junction U. S. Highway 219, and thence along U. S. Highway 219 to the Pennsylvania-New York State line, to Winchester, Ind., and points within five (5) miles of Winchester; (2) from St. Louis, Mo., and points in Illinois, Indiana, Michigan, New York (except points in the New York, N. Y., Commercial Zone, as defined by the Commission, and Long Island), points in West Virginia, those in Kentucky on and north of U. S. Highway 60, and those in Pennsylvania on and west of a line beginning at the Pennsylvania-West Virginia State line and extending along U. S. Highway 119 to junction U. S. Highway 219, and thence along U. S. Highway 219 to the Pennsylvania-New York State line, to Lancaster, Ohio; and (3) from Bay City, Mich., St. Louis, Mo., and points in Illinois, Indiana, Ohio, New York (except points in the New York, N. Y., Commercial Zone, as defined by the Commission, and Long Island), points in West Virginia (except Fairmont, Morgantown, and Clarksburg), those in Kentucky on the Ohio River, and those in Michigan on south, and west of a line beginning at Ludington, Mich., and extending along U. S. Highway 10 to Flint, Mich., thence along Michigan Highway 21 to Port Huron, Mich., to South Connellsville, Pa.

NOTE: Applicant has common carrier pending applications in MC 114019 and Subs thereunder. Applicant states it now holds contract carrier authority to transport glass containers and other glassware from the origins of Winchester, Ind., and points within 5 miles thereof, Lancaster, Ohio, and South Connellsville, Pa., to the points and territories described as origins above. The purpose of the instant application is to secure authority to transport pallets and skids used in that transportation, upon return.

MOTOR CARRIERS OF PASSENGERS

No. MC 6344 (Sub No. 3), filed December 23, 1957, JOHN W. TURNER, doing business as TURNER MOTOR COACH SERVICE, 301 Elm Street, Fitchburg, Mass. Applicant's attorney: Mary E. Kelley, 84 State Street, Boston 9, Mass. For authority to operate as a *common carrier*, over irregular routes, transporting: *Passengers and their baggage*, in special round-trip operations, restricted to the transportation of passengers, who at the time are traveling for the purpose of participating in games commonly referred to as beano and bingo games, beginning and ending at Marlboro, Maynard, and Hudson, Mass., and extending to Hudson, Nashua, East Jaffrey, Pelham, and Derry, N. H., and Pawtucket and Central Falls, R. I. Applicant is authorized to conduct operations in Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, West Virginia, Wyoming, and the District of Columbia.

No. MC 52475 (Sub No. 7), filed December 23, 1957, POTOMAC MOTOR LINES, INC., 119 West Franklin Street, Hagerstown, Md. Applicant's attorney: Jack R. Turney, Jr., 2001 Massachusetts Avenue, NW., Washington 6, D. C. For authority to operate as a *common carrier*, over regular routes, transporting: *Passengers, express, mail, newspapers*, and *baggage* of passengers in the same vehicle with passengers, (1) between Baltimore, Md., and Waynesboro, Pa., from Baltimore over Maryland Highway 26 to Eldersburg, thence over Maryland Highway 32 to State Sanitorium at or near Sykesville, Md., thence return over Maryland Highway 32 to Eldersburg, thence over Maryland Highway 32 to Westminister, thence over Maryland Highway 97 to the Maryland-Pennsylvania State line, thence over Pennsylvania Highway 16 to Waynesboro, and return over the same route, serving all intermediate points; (2) between Monterey, Pa., and Sabillasville, Md., from Monterey over unnumbered Pennsylvania Highway to the Pennsylvania-Maryland State line, thence over Maryland Highway 81 to Sabillasville, and return over the same route, serving all intermediate points; and (3) between Frederick, Md., and Eldersburg, Md., over Maryland Highway 26, serving all intermediate points. Applicant is authorized to operate in Maryland, West Virginia, and Pennsylvania.

No. MC 52602 (Sub No. 1), filed December 23, 1957, WELLS GROVER, doing business as TETON STAGE LINES, P. O. Box 333, Rexburg, Idaho. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *express*, in the same vehicle with passengers, between Sugar City, Idaho and Ashton, Idaho, over U. S. Highway 191, serving all intermediate points. Applicant is authorized to transport Passengers and their baggage and express and newspapers, in Idaho.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5 (a) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F 6721, published in the October 23, 1957, issue of the FEDERAL REGISTER on page 8344. Second application filed January 6, 1958, for temporary authority under section 210a (b).

No. MC–F 6772, published in the December 11, 1957, issue of the FEDERAL REGISTER on page 9909. Application filed December 30, 1957, for temporary authority under section 210a (b).

No. MC–F 6774, published in the December 19, 1957, issue of the FEDERAL REGISTER on page 10250. Supplement filed January 6, 1958, to show joinder of MILTON STANLEY WYCOFF, 2521 Maywood Drive, Salt Lake City, Utah, as the person in control of vendee. Applicants' attorney is Harry D. Pugsley, Continental Bank Building, Salt Lake City 1, Utah.

No. MC–F 6804. Authority sought for purchase by ELI E. WAGNER, JR., 724 East Boundary Avenue, York, Pa., of a portion of the operating rights of CLYDE J. TROUT, R. D. No. 3, Stewartstown, Pa. Applicants' attorney: Spencer R. Liverant, 141 East Market Street, York, Pa. Operating rights sought to be transferred: *Brick*, as a *common carrier* over irregular routes from points in Spring Garden Township, York County Pa., to building construction sites in Maryland, Delaware, New Jersey, New York, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Pennsylvania, West Virginia, Delaware, Virginia, New Jersey, Maryland, North Carolina, New York, Connecticut, Massachusetts, Rhode Island, and the District of Columbia, and as a *contract carrier* in Pennsylvania, Virginia, Maryland, New York, New Jersey, and the District of Columbia. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6805. Authority sought for purchase by ALLIED VAN LINES, INC., P. O. Box 527, 25th Avenue and Roosevelt Road, Broadview, Ill., of a portion of the operating rights of PALO ALTO TRANSFER AND STORAGE COMPANY, 151 Homer Street, Palo Alto, Calif. Applicants' attorney: John R. Turney, 2001 Massachusetts Avenue NW., Washington 6, D. C. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between points within 50 miles of Palo Alto, Calif., including Palo Alto; authority to engage in operations as a broker in connection with the transportation of *household goods*, as defined by the Commission, from Palo Alto, Calif., and points within 15 miles of Palo Alto, to points in the United States. Vendee is authorized to operate as a *common carrier* in all States in the United States and the District of Columbia. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6806. Authority sought for purchase by NORTHERN HAULERS CORPORATION, Factory Square, Watertown, N. Y., of a portion of the operating rights of PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, N. Y., and for acquisition by EWALD E. KUNDTZ, Terminal Tower Building, Cleveland, Ohio, of control of such rights through the purchase. Applicants' attorneys: Bert Collins, 140 Cedar Street, New York 6, N. Y., and Ewald E. Kundtz, Terminal Tower Building, Cleveland, Ohio. Operating rights sought to be transferred: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk,

and those requiring special equipment, in truckload lots, minimum weight 10,000 pounds, as a *common carrier* over irregular routes between New York, N. Y., and points in Bergen, Passaic, Sussex, Warren, Morris, Essex, Hudson, Union, Middlesex, Somerset, Hunterdon, Monmouth, and Ocean Counties, N. J., on the one hand, and, on the other, points in Clinton, Franklin, St. Lawrence, Jefferson, and Essex Counties, N. Y. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, Pennsylvania, Rhode Island, Maryland, Connecticut, Massachusetts, Maine, Vermont, and New Hampshire. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6807. Authority sought for purchase by UNITED STATES VAN LINES, INC., 3340 North Mannheim Road, Franklin Park, Ill., of the operating rights of A. BURGESS & SONS, INC., 795 Washington Street, Dorchester 24, Mass., and for acquisition by ARCHIBALD H. STEVENS, 121 South Niagara, Saginaw, Mich., HAZEN H. STEVENS, 3340 Mannheim Road, Franklin Park, Ill., ALLEN A. METCALF, SR., and ALLEN A. METCALF, JR., both of 1255 East Highway 36, St. Paul, Minn., of control of such rights through the purchase. Applicants' attorney: Ramon S. Regan, 2255 Penobscot Building, Detroit 26, Mich. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes between Boston, Mass., on the one hand, and, on the other, points in Massachusetts, New Hampshire, Maine, Vermont, Rhode Island, and Connecticut. Vendee is authorized to operate as a *common carrier* in all States in the United States and the District of Columbia except the States of Maine, Vermont, New Hampshire, Mississippi, Alabama, New Mexico, and Nevada. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6808. Authority sought for purchase by B. F. WALKER, INC., 100 West Seventh Street, Fort Worth, Tex., of the operating rights and certain property of FORDYCE G. PITTMAN, doing business as PITTMAN TRANSPORTATION CO., P. O. Box 1203, Casper, Wyo. Applicants' attorney: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver 3, Colo. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, not including the stringing or picking up of pipe in connection with pipelines, as a *common carrier* over irregular routes, between points in New Mexico, Arizona, North Dakota, South Dakota, Nebraska, Wyoming, Colorado, Montana, and Utah; *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing and maintenace of dams, and power plants, between railheads in Carbon, Fremont, Hot Springs, and Natrona Counties, Wyo., on the one hand, and, on the other, the Kortes dam site in Carbon County, Boysen dam site in Fremont County, and Anchor dam site in Hot Springs County, Wyo.; *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, between points in Nevada, on the one hand, and, on the other, points in Arizona, Colorado, Montana, New Mexico, Nebraska, South Dakota, North Dakota, Utah, and Wyoming. Vendee is authorized to operate as a *common carrier* in Texas, Louisiana, Oklahoma, Colorado, Wyoming, Utah, Montana, New Mexico, and Kansas. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6809. Authority sought for control and merger by TERMINAL TRANSPORT COMPANY, INC., 180 Harriet Street SE., Atlanta, Ga., of the operating rights and property of COATS MOTOR TRANSFER COMPANY, INCORPORATED, P. O. Box 558, Buena Vista Station, Miami 37, Fla., and for acquisition by JOE KATZ, HOOSIER TRAILER CORP., and STAR TRACTOR CORP., all of Atlanta, of control of such rights and property through the transaction. Applicants' attorney: Reuben G. Crimm, 805 Peachtree Street Building, Atlanta 8, Ga. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions including household goods and commodities in bulk, as a *common carrier* over irregular routes, between certain points in Florida; *household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in Saint Lucie, Okeechobee, Indian River, and Martin Counties, Fla. TERMINAL TRANSPORT COMPANY, INC., is authorized to operate as a *common carrier* in Florida, Georgia, Illinois, Indiana, Kentucky, Tennessee and Alabama. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6810. Authority sought for purchase by JEFFERSON TRUCKING COMPANY, 32 North Deepland, Grosse Pointe Shores, Mich., of a portion of the operating rights of C. J. DAVIS, doing business as ST. LOUIS FREIGHT LINES, 1000 Michigan Avenue, St. Louis, Mich. Applicants' attorney: William B. Elmer, 2606 Guardian Building, Detroit 26, Mich. Operating rights sought to be transferred: *Roofing, insulating and building materials*, as a *contract carrier* over irregular routes from National City, Mich., to all points in Illinois, Indiana, and Ohio. Vendee is authorized to operate as a *contract carrier* in Michigan and Ohio. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6811. Authority sought for purchase by TEXAS-OKLAHOMA EXPRESS, INC., 1005 South Lamar Street, Dallas, Tex., of the operating rights and property of R. L. RICHTER, MARTHA RICHTER AND FRANK CARTER, doing business as CHECKER TRANSIT COMPANY, P. O. Box 169, Enid, Okla., and for acquisition by LEONARD B. BROWN, GEO. C. JOHNSTON, and P. L. CASE, all of Dallas, of control of such rights and property through the purchase. Applicants' attorney: Reagan Sayers, 303 Century Life Building, Fort Worth 2, Tex. Operating rights sought to be transferred: *General commodities*, with certain exceptions including houshold goods and commodities in bulk, as a *common carrier* over regular routes between Enid, Okla., and Kansas City, Mo., between Enid, Okla., and Chickasha, Okla., between El Reno, Okla., and Oklahoma City, Okla., between Enid, Okla., and Woodward, Okla., and between Orienta, Okla., and Woodward, Okla., serving certain intermediate and off-route points; *household goods*, as defined by the Commission, over irregular routes between points in Garfield County, Okla., and points within 50 miles of Garfield County, on the one hand, and, on the other, points in Kansas. Vendee is authorized to operate as a *Common carrier* in Oklahoma and Texas. Application has been filed for temporary authority under section 210a (b).

MOTOR CARRIERS OF PASSENGERS

No. MC–F 6803. Authority sought for control by TRANSPORTATION PROPERTIES, INC., Union Life Building, Little Rock, Ark., and CONTINENTAL SOUTHERN LINES, INC., 425 Bolton Avenue, Alexandria, La., of AMERICAN BUSLINES, INC., (RICHARD W. SMITH, TRUSTEE, AND W. F. AIKMAN, ADDITIONAL TRUSTEE) 1341 P Street, Lincoln, Nebr. Applicants' attorney: Carl B. Callaway, 315 Continental Avenue, Dallas, Tex. Operating rights sought to be controlled: *Passengers and their baggage*, and *mail*, in the same vehicle with passengers, as a *common carrier*, over regular routes between New York, N. Y., and Harrisburg, Pa., between Pittsburgh, Pa., and Columbus, Ohio, between Valparaiso, Ind., and Gary, Ind., between Hammond, Ind., and Harvey, Ill., between Pittsburgh, Pa., and Los Angeles, Calif., between Los Angeles, Calif., and Tucson, Ariz., and between Gila Bend, Ariz., and Phoenix, Ariz., serving certain intermediate and off-route points; *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over regular routes including routes between Chicago, Ill., and Pittsburgh, Pa., between Philadelphia, Pa., and Pittsburgh, Pa., between Baltimore, Md., and Washington, D. C., between New Brunswick, N. J., and Somerville, N. J., between Kansas City, Mo., and Chattanooga, Tenn., and between Philadelphia, Pa., and New York, N. Y., serving certain intermediate and off-route points; *passengers and their baggage*, and *express, mail* and *newspapers* in the same vehicle with passengers, over regular routes including routes between Collierville, Tenn., and Corinth, Miss., between Waynesville, Mo., and Houston and Vienna, Mo., between Harrisburg, Pa., and Pittsburgh, Pa., between Lorain, Ohio, and Lakewood, Ohio, between Toledo, Ohio, and Detroit, Mich., between Chicago, Ill., and Los Angeles, Calif., between Chicago, Ill., and Denver,

Colo., between Sheffield, Ill., and Davenport, Iowa, between St. Louis, Mo., and Keokuk, Iowa, between Beverly, Mo., and Leavenworth, Kans., between Sioux City, Iowa, and Omaha, Nebr., between Lafayette, Colo., and Billings, Mont., between Billings, Mont., and Sheridan, Wyo., between Cheyenne, Wyo., and Belle Fourche, S. Dak., between Torrington, Wyo., and Scottsbluff, Nebr., between Uintah, Utah, and Ogden, Utah, between Salt Lake City, Utah, and Ely, Nev., between Salt Lake City, Utah, and San Francisco, Calif., between Fort Wayne, Ind., and Toledo, Ohio, and between Philadelphia, Pa., and New York, N. Y., serving certain intermediate and off-route points; *passengers and their baggage,* and *express* and *mail* in the same vehicle with passengers, between Jersey City, N. J., and New York, N. Y.; *passengers,* between junction New Jersey Highways 25 and 1 in Jersey City, N. J., and New York, N. Y.; *passengers and their baggage,* and *express* in the same vehicle with passengers, between Scottsbluff, Nebr., and Sterling, Colo., between Rock Springs, Wyo., and Jackson, Wyo., between Lodi, Calif., and Stockton, Calif., between Sacramento, Calif., and San Francisco, Calif., between Suisun City, Calif., and junction California Highways 12 and 24 near Rio Vista, Calif., between Isleton, Calif., and Lodi, Calif., between Thornton, Calif., and Stockton, Calif., between Sacramento, Calif., and Lodi, Calif., and between Walnut Grove, Calif., and Thornton, Calif., serving certain intermediate points; *passengers and their baggage,* between Keokuk, Iowa, and junction U. S. Highway 61 and Iowa Highway 92, between Muscatine, Iowa, and Cedar Rapids, Iowa, and between Wheaton Springs, Calif., and the site of Davis Dam, located at the Nevada-Arizona State line and the Colorado River at a point west of Kingman, Ariz., serving all intermediate points; *newspapers,* in the same vehicle with passengers, between Jersey City, N. J., and New York, N. Y., restricted against traffic moving solely between Newark, N. J., and New York, N. Y., or between intermediate points thereto, or between New York and Newark, on the one hand, and, on the other, points intermediate to Newark and New York; *express* and *newspapers,* in the same vehicle with passengers, between Pittsburgh, Pa., and Los Angeles, Calif., between Los Angeles, Calif., and Tucson, Ariz., and between Gila Bend, Ariz., and Phoenix, Ariz., serving all intermediate points. TRANSPORTATION PROPERTIES, INC., holds no authority from this Commission. CONTINENTAL SOUTHERN LINES, INC., is authorized to operate as a *common carrier* in Texas, Louisiana, Arkansas, Alabama, Mississippi, Tennessee, Kentucky, Illinois, and Missouri. Application has not been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-309; Filed, Jan. 14, 1958; 8:47 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 10, 1958.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34398: *Foodstuffs between points in official and southern territories.* Filed by O. E. Schultz, Agent (ER No. 2417), for interested rail carriers. Rates on canned or preserved foodstuffs, carloads between points in official (including Illinois) territory, on the one hand, and points in southern territory, on the other.

Grounds for relief: Short-line distance formula, short or weak line arbitraries, and grouping.

Tariffs: Supplement 8 to Agent H. R. Hinsch's tariff I. C. C. 4777. Supplement 25 to Agent R. G. Raasch's tariff I. C. C. 880.

FSA No. 34399: *Plaster, wallboard, perlite, vermiculite in official territory.* Filed by O. E. Schultz, Agent (ER No. 2418), for interested rail carriers. Rates on plaster and wallboard, and related commodities, carloads, perlite, other than crude, carloads, and vermiculite, other than crude, carloads between points in official territory, not including points in northern Illinois, southern Wisconsin and extended zone "C" in Wisconsin, and excluding points within Illinois territory.

Grounds for relief: Short-line distance formulas.

Tariff: Supplement 23 to Agent H. R. Hinsch's tariff I. C. C. 4772.

FSA No. 34400: *TOFC service—Commodities between Chicago, Ill., group and Colorado.* Filed by W. J. Prueter, Agent (WTL No. A-1956), for interested rail carriers. Rates on various commodities loaded in trailers and transported on railroad flat cars between Chicago, Ill., and points grouped therewith, on the one hand, and points in Colorado on the Atchison, Topeka and Santa Fe Railway Company, on the other.

Grounds for relief: Motor truck competition.

Tariff: Supplement 43 to Agent Prueter's tariff I. C. C. A-4103.

FSA No. 34401: *Cotton sweepings and related articles in the South.* Filed by O. W. South, Jr., Agent (SFA No. A3587), for interested rail carriers. Rates on cotton sweepings, and related articles, carloads between points in southern territory, also between St. Louis, Mo., and points in southern Illinois and Indiana, on the one hand, and points in southern territory, on the other.

Grounds for relief: Short-line distance formula, grouping, and short-line arbitraries.

Tariffs: Supplement 14 to Agent Spaninger's tariff I. C. C. 1613 and two other schedules.

FSA No. 34402: *Citrus fruit pomace syrup—Florida points to Philadelphia, Pa.* Filed by O. W. South, Jr., Agent (SFA No. A3588), for interested rail carriers. Rates on citrus pomace final syrup, carloads from specified points in Florida, to Philadelphia, Pa.

Grounds for relief: Truck-barge competition.

Tariff: Supplement 68 to Agent Spaninger's tariff I. C. C. 1240.

FSA No. 34403: *Sand—North Jefferson, Mo., to Haywood, Ky.* Filed by F. C. Kratzmeir, Agent (SWFB No. B-7184), for interested rail carriers. Rates on sand, carloads, as described in the application from North Jefferson, Mo., to Haywood, Ky.

Grounds for relief: Short-line distance formulas.

Tariff: Supplement 133 to Agent Kratzmeir's tariff I. C. C. 4135.

FSA No. 34404: *Roofing and slate—Southwestern points to southern points.* Filed by F. C. Kratzmeir, Agent (SWFB No. B-7178), for interested rail carriers. Rates on roofing or building material and roofing slate, carloads from specified points in Arkansas, Louisiana (west of the Mississippi River), Oklahoma, and Texas to points in southern territory, including Mississippi River Crossings, Memphis, Tenn., and south.

Grounds for relief: Short-line distance formula and market competition.

Tariff: Supplement 5 to Agent Kratzmeir's tariff I. C. C. 4264.

FSA No. 34405: *Fuller's earth and pyrophyllite—South to southwest.* Filed by F. C. Kratzmeir, Agent (SWFB No. B-7179 for interested rail carriers. Rates on fuller's earth, carloads, and pyrophyllite, carloads from specified points in Florida, Georgia, and North Carolina, also Paris, Tenn., to specified points in Arkansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

Grounds for relief: Short-line distance formula, and grouping.

Tariff: Agent Kratzmeir's tariff I. C. C. 4277.

FSA No. 34406: *Superphosphate—Southwestern points to western points.* Filed by F. C. Kratzmeir, Agent (SWFB No. B-7182), for interested rail carriers. Rates on superphosphate, not defluorinated superphosphate, nor feed grade superphosphate, in bulk, carloads from specified points in Arkansas, Louisiana, Missouri, Oklahoma, and Texas to specified points in Iowa, Minnesota, and Nebraska.

Grounds for relief: Short-line distance formula.

Tariff: Supplement 246 to Agent Kratzmeir's tariff I. C. C. 4112.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-306; Filed, Jan. 14, 1958; 8:47 a. m.]